



THE LAST MAJOR METROPOLIS

The Nation's Largest Post-Pandemic Survey of Service Workers Reveals Challenges with New York's Persistent Subminimum Wage for Tipped Workers

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1 | EXECUTIVE SUMMARY

A legacy of slavery and a source of race and gender inequity, poverty, and harassment, the subminimum wage for tipped workers has been a hot topic of debate in New York and nationally, for the last decade — a debate that intensified with the pandemic. Given the mass exodus of millions of workers from the restaurant industry post-pandemic, with New York losing more workers than any other state, workers are winning dramatic wage increases in both thousands of restaurants nationwide and in dozens of states through policy change.

California, Washington, and Nevada are among the seven states that already have One Fair Wage — a full minimum wage with tips on top. Last year Washington, DC passed fair wage legislation by voter ballot measure and this October, Chicago lawmakers followed by passing legislation. Now, New York and the nation are seeing Massachusetts, Ohio, Michigan, and Arizona all about to follow with statewide ballot measures of their own.¹

New York is now the only one of the top three restaurant destination cities in the United States that has not ended this legacy of slavery, and by 2024 it will be in the

minority of the top 20 metropolitan areas, a majority of whom will have ended it. From ballot measures to state law, and city ordinances, all the other great food destination cities in the U.S. are, or are about to be, fair wage dining destinations: Los Angeles, San Francisco, Seattle, Las Vegas, Washington (DC), Chicago, and Boston. This means that New York City will be the only subminimum wage restaurant destination city. Sticking out as the only anti-worker food destination would be a disaster not only for workers, but for employers, consumers, and the state's tourism and economy overall.

To better understand the subminimum wage's ongoing impact post-pandemic, One Fair Wage conducted a survey of over 2,000 tipped workers across the country, to study both the economic realities workers face and

how the pandemic exacerbated these issues. This is the largest study of service workers and their experiences during and post-pandemic conducted to date, and the only such study to compare these workers' experiences in states that require a full minimum wage versus states like New York that allow a subminimum wage.



Key Findings

FINDING 1

COVID Impacts on Tipped Workers and the Resulting Worker Exodus Were Worse in Subminimum Wage States like New York

In post-pandemic surveys, workers reported that they were less likely to be able to access unemployment insurance in subminimum wage states like New York than in fair wage states like California. The pandemic-initiated restaurant worker exodus was the highest in New York.



› **Workers in subminimum wage states like the Empire State were nearly twice as likely to report that they were unable to secure unemployment insurance, and this disparity was worse for Black workers.** In fair wage states, 87 percent of workers surveyed said they had an interruption in employment during the pandemic. Of those, 42 percent of workers surveyed stated they were unable to secure unemployment benefits when they lost their employment during the pandemic. In subminimum wage states, 92 percent of workers surveyed stated they had an interruption in employment. Of those that had an interruption in employment, 68 percent were not able to receive unemployment. In addition, in subminimum wage states, 95 percent of Black workers reported an interruption in income and of those workers, 78 percent stated they were not able to receive unemployment insurance. By comparison, 89 percent of white workers in subminimum wage surveyed reported an interruption in income and of those workers, 43 percent reported not receiving unemployment insurance.²

› **Nationwide, a majority of all tipped workers reported that their tips went down and harassment went up, but New York lost more workers than any other state, and a majority reported that it was due to these factors.** New York, in particular, witnessed the largest exodus of workers after pandemic-related shutdowns with over 120,000 workers — 18 percent — not returning to the industry by the end of 2021, more than any other U.S. state or territory.³ In fact, 47 percent of New York restaurant workers in previous surveys by One Fair Wage, reported experiencing a significant increase in the overall levels of unwanted sexualized comments from customers and 80 percent reported hostile behavior from customers in response to staff enforcing COVID-19 safety protocols.⁴

› **Even post-pandemic, New York's staffing crisis continues to be nearly double that of California.** While restaurant jobs in the fair wage state of California are down 2.8 percent from the number of jobs prior to the COVID shutdown, New York is still down by 5 percent from pre-shutdown levels.^{5,6}

FINDING 2

Post-Pandemic, Nationally, Workers Reported Alarming High Levels of Wage Theft in States That Allow a Subminimum Wage

Post-pandemic, nearly half (47 percent) of all respondents and nearly two-thirds (60 percent) of Black women respondents said that earning the subminimum wage regularly results in them not earning the full minimum wage even with tips.⁷ Per state and federal law, employers of tipped workers in subminimum wage states are required to ensure that tips bring workers to the full minimum wage, or make up the difference themselves, but post-pandemic survey data from subminimum wage states like New York show that nearly half of all workers and nearly two-thirds of Black women report this is regularly not happening.^{8,9}

FINDING 3

Post-COVID, Tipped Workers and Their Employers are Worse Off in New York Than in California

Post-COVID, tipped workers and their employers are faring better in California, where workers are required to be paid the full minimum wage with tips on top, than in New York, where tipped workers can be paid a subminimum wage.

- › Tipped workers in New York are more likely to rely on public assistance than their counterparts in California.¹⁰
- › California small business restaurants have grown at more than double the rate of New York's small business restaurants.¹¹
- › California small business restaurants are more likely to be owned by people of color and women than in New York.¹²

2 | BACKGROUND: A HISTORY OF LEAVING TIPPED WORKERS BEHIND IN NEW YORK AND NATIONALLY

In New York and much of the United States, the history of tipped workers is a history of denied wage gains in favor of business interests. Even while the movement to increase the minimum wage has made great gains for some workers in the Empire State, tipped restaurant staff have been repeatedly left behind. In fact, since 1938 at the federal level and 1960 in New York State, tipped workers, especially tipped restaurant workers, who are overwhelmingly women and disproportionately women of color and single mothers working in very casual restaurants and bars, have been repeatedly excluded from minimum wage increases by legislators due to lobbying from the national, New York State,

and New York City restaurant associations.¹³ These women, particularly women of color, have been repeatedly told to wait for a full minimum wage with tips on top, which has been granted to their counterparts in comparable states like California, but has never materialized – with dire consequences for the future of the restaurant industry in New York and across the country.

From 2015 to 2023, while all other workers saw an increase to \$15, women of color tipped restaurant workers served as the leverage for these negotiations and received a decrease from 85 percent of the wage to 66 percent of the wage.¹⁴ In 2019, even as other tipped workers, such as car wash workers, nail and hair salon workers, and parking attendants, went up to 100 percent of the wage, tipped restaurant workers remained frozen at 66 percent of the wage due to the lobbying of the national, state, and city restaurant associations.¹⁵

The fight for increasing wages, both federally and in the Empire State, has an unfortunate pattern of leaving out a large demographic from its gains — tipped workers. In practice, this means disproportionately leaving out women and women of color.¹⁶ At Emancipation, the restaurant industry sought the ability to hire newly freed slaves, especially Black women, not pay them, and have them live exclusively on tips, a concept that had just recently arrived in the United States from Europe.¹⁷ The National Restaurant Association (NRA) was formed in 1919 with the express intent of ensuring that they would be able to continue to access free Black female labor and suppress farm workers' wages as well, to keep their costs low.¹⁸

The NRA succeeded in its mission in 1938 when the United States passed the first federal minimum wage legislation as part of the New Deal, but farmworkers, domestic workers, and hospitality workers were excluded.¹⁹ Tipped restaurant workers were given no wage and made to live exclusively on tips.²⁰ It was not until several decades later, in 1966, that these women were given any wage at all, but at that time they were



given a subminimum wage — a percentage of the minimum wage, and forced to earn the remainder of the minimum wage in tips.²¹ Thirty years later, the federal subminimum wage for tipped workers was set at \$2.13 an hour and subsequently frozen. There has been no increase in the federal minimum wage for tipped workers ever since.²² To this day, tipped workers nationally are two-thirds (66.6 percent) women and disproportionately women of color and single mothers.²³ Therefore, this workforce, which is made up overwhelmingly of women, and women of color, went from having no entitled wages to having a subminimum wage.

To better understand how this continues to harm subminimum wage workers, One Fair Wage conducted a survey of over 2,000 tipped workers across the country, to study both the economic realities workers face and how the pandemic exacerbated these issues. This is the largest study of service workers and their experiences during and post-pandemic conducted to date, and the only such study to compare these workers' experiences in OFW versus subminimum wage states.



In advance of releasing a full report on the 2,000 surveys, One Fair Wage is spotlighting some of the most glaring economic issues workers brought up in our survey. Workers surveyed in subminimum wage states reported greater challenges during and post-pandemic than workers in fair wage states with regard to unemployment insurance, health, race and gender differentials, and wage theft. Meanwhile, policy is advancing across the country to end the subminimum wage for tipped workers that could leave New York behind; New York must address this glaring omission and inequity immediately or risk not allowing its restaurant industry to fully recover.

FINDING 1

COVID Impacts on Tipped Workers and The Resulting Worker Exodus Were Worse in Subminimum Wage States like New York

In post-pandemic surveys, workers reported that they were less likely to be able to access unemployment insurance in subminimum wage states like NY than in fair wage states like California, and the pandemic-initiated restaurant worker exodus was highest in New York.

A. Workers in subminimum wage states like New York were nearly twice as likely to report that they were unable to secure unemployment insurance, and this disparity was worse for black workers.

Tipped workers in subminimum wage states reported that they were more likely to have been unable to receive unemployment during the pandemic. They were also more likely to report having an interruption in employment during the pandemic.

Overall, 36 percent of tipped workers surveyed in fair wage states reported that they were unable to secure unemployment benefits, and 13 percent had no interruption in employment or income. Compare this to the 62 percent of workers surveyed in subminimum wage states who were unable to secure unemployment insurance and 8 percent reported they had no disruption in employment or income.

TABLE 1

Unemployment Insurance Access in One Fair Wage States v. Subminimum Wage States

Were you able to successfully secure Unemployment Insurance during the pandemic?	OFW States	Subminimum Wage States
Yes	23%	12%
Yes, but with great challenges	28%	18%
NO	36%	62%
I did not experience an interruption in income or employment	13%	8%

Source: One Fair Wage (2023). One Fair Wage Worker Public Health Survey Data, Collected 06/22-8/23.²⁴

When comparing survey responses on unemployment insurance by the gender and race of respondents in subminimum wage states, there was little difference in gender, but data showed a stark difference between white respondents and Black respondents and their ability to receive unemployment insurance. While 39 percent of white respondents were unable to secure unemployment, 74 percent of Black respondents said they were unable to receive unemployment insurance.

TABLE 2

Access to Unemployment Insurance in Subminimum Wage States by Race and Gender

Were you able to successfully secure Unemployment Insurance during the pandemic?	White Respondents in Subminimum Wage States	Black Respondents in Subminimum Wage States
Yes	22%	7%
Yes, but with great challenges	28%	14%
NO	39%	74%
I did not experience an interruption in income or employment	11%	5%

Source: One Fair Wage (2023). One Fair Wage Worker Public Health Survey Data, Collected 06/22-8/23.²⁵

B. Nationwide, almost half of all tipped workers reported that their tips went down and harassment went up, but New York lost more workers than any other state, and a majority reported that it was due to these factors. New York, in particular, witnessed the largest exodus of tipped workers after pandemic-related shutdowns with over 120,000 workers — 18 percent — not returning to the industry by the end of 2021, more than any other U.S. state or territory.²⁶ In fact, 47 percent of New York restaurant workers in previous surveys by One Fair Wage, reported experiencing a significant increase in the overall levels of unwanted sexualized comments from customers and 80 percent reported hostile behavior from customers in response to staff enforcing COVID-19 safety protocols.^{27,28}

Workers continue to report tips are down since the start of the pandemic, especially among women and members of the LGBTQ community. One Fair Wage’s latest survey saw 46 percent of all surveyed workers reporting their tips went down. In subminimum wage states, a higher percentage of women (50 percent) and LGBTQ-identified people (58 percent) reported their tips decreased compared to men (38 percent) and non-LGBTQ-identified people (42 percent).

TABLE 3

Worker Experiences Since Start of the Pandemic

Have any of the following happened to you since the start of the pandemic?	All Respondents
My tips have decreased	46%
My tips have not brought me to the full minimum wage	21%
My employer withheld some tips or distributed them illegally	9%
My employer did not pay me overtime pay (1.5 times the wage) when I worked more than 40 hours in one week	14%
None of the above	40%

Source: One Fair Wage (2023). One Fair Wage Worker Public Health Survey Data, Collected 06/22-8/23.²⁹

C. Even post-pandemic, New York’s staffing crisis continues to be nearly double that of California. Not surprisingly, given the differences in worker experiences in fair wage states and subminimum wage states, New York is still faring worse post-pandemic with regard to the restaurant industry staffing crisis. While the fair wage state of California is down 2.8 percent compared to the number of restaurant jobs before the first COVID shutdown, New York is still down by 5 percent from pre-shutdown levels.^{30,31}

FINDING 2:

Post-Pandemic, Tipped Workers Reported Alarming High Levels of Wage Theft in States That Allow a Subminimum Wage

In states like New York that allow employers to pay a subminimum wage for tipped workers, both federal and state law require employers to ensure that workers receive enough tips to bring their hourly income to the full minimum wage or they must make up the difference.³²



Of workers surveyed from subminimum wage states like New York, nearly half (47 percent) reported that their tips and wages from their employers did not bring them up to the full minimum wage in their state. When breaking down the difference in pay and tips by race, 33 percent of white workers in subminimum wage states reported that their tips and wages did not meet the state minimum wage, while Black workers reported that tips did not bring them to the full minimum wage at nearly double the rate, at 57 percent.

TABLE 4

Tipped Worker Wage Theft in Subminimum Wage States

Do your tips or additional wages from your employer bring you up to the minimum wage in your state?	Subminimum Wage States
Yes	27%
No	47%
I do not receive tips	13%
Unsure	12%

Source: One Fair Wage (2023). One Fair Wage Worker Public Health Survey Data, Collected 06/22–8/23.³³

TABLE 5

Tipped Worker Wage Theft in Subminimum Wage States by Race

Do your tips or additional wages from your employer bring you up to the minimum wage in your state?	White Respondents	Black Respondents
Yes	41%	18%
NO	33%	57%
I do not receive tips	13%	14%
Unsure	14%	11%

Source: One Fair Wage (2023). One Fair Wage Worker Public Health Survey Data, Collected 06/22–8/23.³⁴

This gap widened when looking at race and gender together. While 24 percent of white men reported that their tips and wages did not bring them up to the full minimum wage, 59 percent of Black women reported tips and wages from their employer did not bring them up to the full minimum wage.³⁵

TABLE 6

Tipped Worker Wage Theft in Subminimum Wage States by Race and Gender

Do your tips or additional wages from your employer bring you up to the minimum wage in your state?	White Women Respondents	White Men Respondents	Black Women Respondents	Black Men Respondents
Yes	40%	43%	20%	15%
NO	38%	24%	59%	55%
I do not receive tips	8%	24%	10%	17%
Unsure	14%	9%	10%	13%

Source: One Fair Wage (2023). One Fair Wage Worker Public Health Survey Data, Collected 06/22–8/23.³⁶



The restaurant industry has always had notoriously high gender and racial wage gaps. The pay and treatment gap experienced by Black women compared to white men is a large and complex issue with many causes and antecedents. Generally, women and women of color experience occupational segregation that concentrates them in lower-paying industries that women have traditionally occupied, rather than the more lucrative industries that men occupy.³⁷

This has persisted through the pandemic and through record high inflation in 2022. Previous studies indicate the reasons for this disparity: Black women tipped workers generally earn far less in wages and tips than white men due to both customer implicit bias — resulting in customers tipping Black women less than their white male counterparts — and occupational segregation in which Black women and other workers of color are segregated into more casual restaurants where tips are less.³⁸

In September 2022, One Fair Wage compared the wages of front-of-house positions in the industry. Researchers found that Black women in the restaurant industry make \$2.57 an hour less than their white male counterparts, which can also be understood as \$5,345 of income lost every year. Among front-of-house restaurant workers who are overwhelmingly tipped employees earning a subminimum wage, this increases to a race-wage gap of \$6.19 an hour, or \$12,875 annually.³⁹

The recent survey data showing Black women were the least likely group by race and gender to report their tips or additional wages from their employer brought them up to the minimum wage in their state shows that conditions have worsened for Black women since survey data was collected and published in One Fair Wage’s September 2022 report. In that report, 53 percent of Black women reported that their tips and wages did not bring them to the full minimum wage at least once over the last month;

now, close to 60 percent of Black women report that their tips and wages regularly do not bring them to the minimum wage.⁴⁰ That same survey also found that Black women were more than 3 times as likely to report that they experienced higher levels of customer hostility during the pandemic compared to white men (20 percent v. 6 percent).⁴¹

Women of color experience occupational segregation that concentrates them in lower paying industries and in the lower paying places within those industries that women have traditionally occupied, rather than the more lucrative industries that men occupy.⁴² Unique among pay inequities, the subminimum wage for tipped workers was an original pay gap created intentionally to deny Black women any wage at all, forcing them to live on tips. One Fair Wage survey data and income analysis continually find a pay gap and worse working conditions for Black women than their white male counterparts. This original and intentional pay inequity has been compounded over the last 160 years since Emancipation by ongoing inequities in hiring by employers and tipping and harassment by customers — resulting in an unlivable situation for Black women.⁴³

FINDING 3

Post-COVID, Tipped Workers and Their Employers are Worse Off in New York Than California

Post-COVID, tipped workers and their employers are faring better in California, where workers are required to be paid One Fair Wage, than in New York, where tipped workers can be paid a subminimum wage.

A. Tipped workers in New York are more likely to rely on public assistance than their counterparts in California.

Workers surveyed in subminimum wage states reported higher use of government assistance programs than their peers in fair wage states. This finding reconfirms years of research that has continuously shown that tipped workers in subminimum wage states face higher poverty rates than their peers in fair wage states.⁴⁴ While these are essential programs for the most vulnerable populations, this difference implies that in practice, states that allow a subminimum wage are using public funds to indirectly subsidize corporate profits.

Almost 25 percent surveyed in fair wage states reported that they receive SNAP benefits (formerly known as food stamps) while nearly 40 percent in subminimum wage states reported receiving food assistance through the program.

TABLE 9

Use of SNAP Benefits in One Fair Wage States v. Subminimum Wage States

Do you currently receive SNAP benefits? (Supplemental Nutrition Assistance Program)	Respondents in One Fair Wage States	Respondents in Subminimum Wage States
YES	24%	38%
No	76%	62%

Source: One Fair Wage (2023). One Fair Wage Worker Public Health Survey Data, Collected 06/22-8/23.⁴⁵

This gap aligns with California and New York Census data, which shows that 14.5 percent of California tipped workers rely on SNAP compared to 17.3 percent of New York tipped workers.⁴⁶

TABLE 10

SNAP Benefits of Restaurant Workers in California and New York

Restaurant Workers Receiving SNAP Benefits	All Restaurants	% All Restaurants
California	195,478	14.79%
New York	113,056	17.39%

SOURCE: OFW analysis of American Community Survey data, 2016 - 2020 5-Year Sample. Steven Ruggles, Sarah Flood, Ronald Goeken, Megan Schouweiler and Matthew Sobek.

Survey respondents in subminimum wage states also indicated that they received housing assistance at nearly double the rate of those surveyed from fair wage states (15 percent compared to 8 percent).

TABLE 11

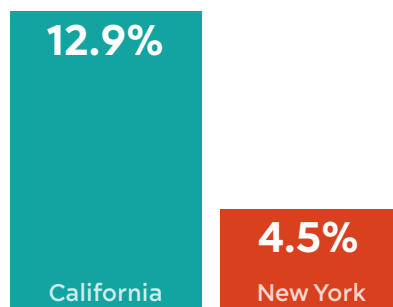
Use of Government Housing Assistance in One Fair Wage v. Subminimum Wage States

Do you receive any government housing assistance?	Respondents in One Fair Wage States	Respondents in Subminimum Wage States
YES	8%	15%
No	92%	85%

Source: One Fair Wage (2023). One Fair Wage Worker Public Health Survey Data, Collected 06/22 - 8/23.⁴⁷

FIGURE 1

New York v. California Small Business Restaurant Growth Rates Since January 2020



B. California small business restaurants have grown at more than double the rate of New York’s small business restaurants. California has experienced a 12.9 percent increase in small business restaurants, compared to a 4.5 percent increase in small business restaurants in New York since January 2020 until today.⁴⁸

SOURCE: Opportunity Insights Economic Tracker. Chetty, Friedman, Hendren, Stepner, and the OI Team. (2022). Opportunity Insights Economic Tracker. <https://www.tracktherecovery.org/>.



C. California small business restaurants are more likely to be owned by people of color and women than in New York.

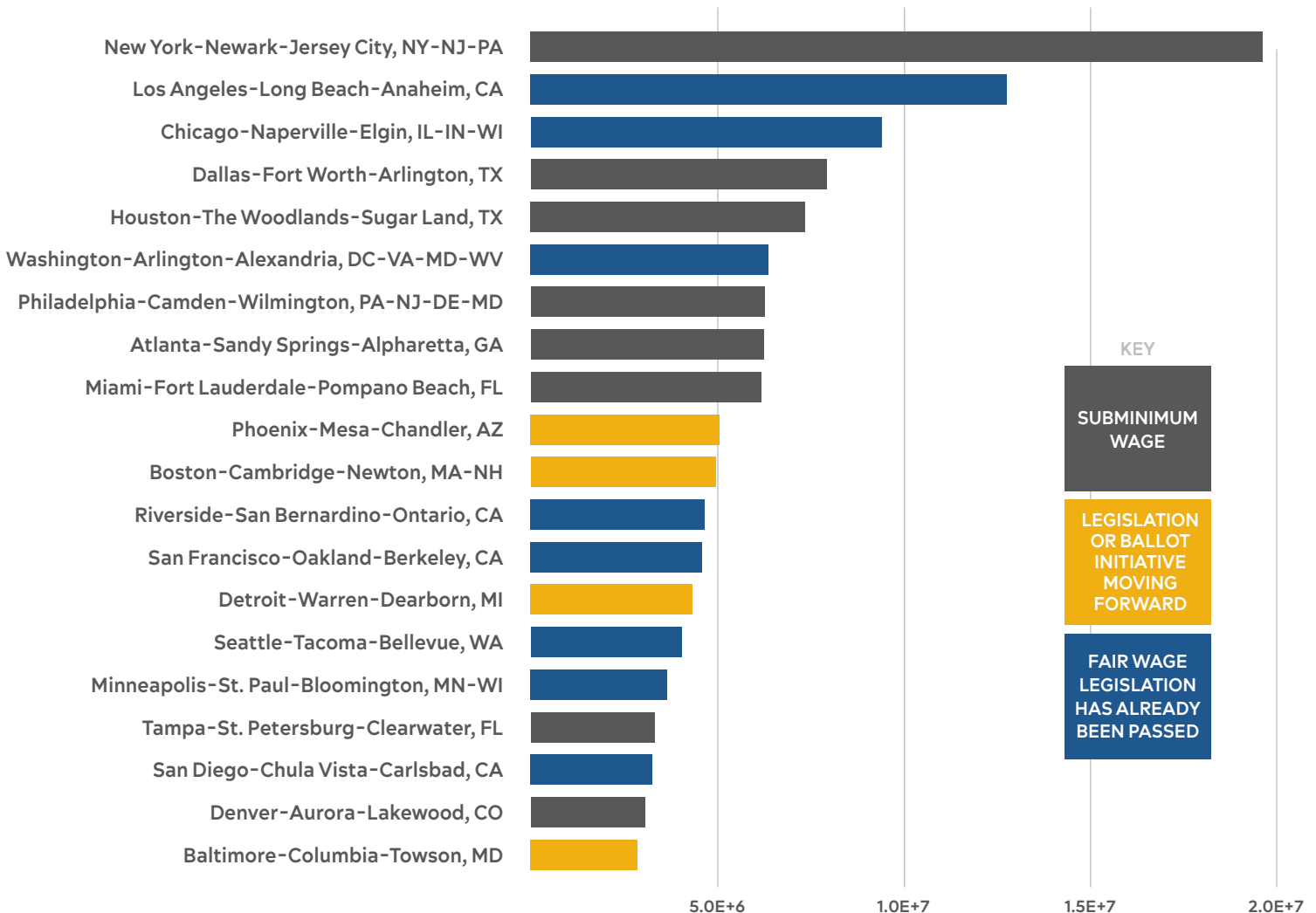
California small business restaurants not only pay better and have better growth than New York, these business owners are also more likely to be owned by women and people of color. In California, 58 percent of restaurants are people of color-owned businesses, compared to only 43 percent of restaurants in New York.⁴⁹ Women own 32 percent of restaurants in California, compared to 28 percent of restaurants that are women-owned in New York.⁵⁰

3 | CONCLUSION: THE CHOICE FOR NEW YORK IS CLEAR

The largest survey of tipped workers post-pandemic to date shows that pre-pandemic and pandemic challenges faced by tipped workers in subminimum wage states have continued and, in some cases, worsened. Tipped workers in subminimum wage states like New York struggled to access unemployment insurance and were more likely to leave the industry than in fair wage states like California. Post-pandemic, these workers continue to report alarmingly high levels of wage theft, lower average wages, and higher government assistance needs in subminimum wage states compared to their fair wage counterparts. And post-pandemic, New York is far-

FIGURE 2

Top 20 US Metropolitan Areas by Population That Have Passed One Fair Wage Policy, Are Likely to Do So, or Maintain Subminimum Wages



SOURCE: One Fair Wage analysis of Estimated 2022 Census Data



ing worse than California in terms of both small business growth rates and workers returning to work in the restaurant industry.

It should be no surprise, then, that policy is advancing in cities and states across the country to end the subminimum wage for tipped workers. In November 2022, with nearly 75 percent support at the ballot, Washington DC voted to end the subminimum wage for tipped workers. On October 4, 2023, the Chicago City Council voted to end the subminimum wage for tipped workers. Legislation is also moving in Cook County, IL, multiple Maryland counties, and the states of Illinois, Maryland, and Connecticut. Polling shows that initiatives on the ballot in Massachusetts, Ohio, and Arizona in November 2024 to raise

wages and the subminimum wage for tipped workers are likely to pass.

By 2024, if it does not take action, New York will be one of the last remaining blue states, and New York City the last remaining major United States metropolis, to persist with this legacy of slavery. As the figure below shows, of the top 20 United States metropolitan areas, more than half (12 out of 20) are likely to require a fair wage by November 2024. The remaining major metropolitan areas to persist with this legacy of slavery will be in states like Texas, Florida and Georgia.

The Empire State can ensure that New York City joins the majority of major metropolitan areas moving to a fair wage and the seven states already paying a full minimum wage with tips on top, and ensure the restaurant industry thrives once again. Or, it can persist in the category of far-right states that refuse to even acknowledge slavery's impact on America.

New York passing fair wage policy would solve the restaurant industry's staffing crisis, while also leading to reduced poverty and higher wages for workers. Raising the subminimum wage to the full minimum wage with tips on top is an important step for the state of New York to provide livable wages, safe work environments, and career pathways for its citizens — and to provide small business restaurants in New York with the workers and consumption patterns needed to grow.

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