Upstate New York Food Service Workers Experience of Health & Harassment During COVID-19

DECEMBER 2020
COVID-19’s devastation of the service sector has been well documented, including the closure of thousands of independently-owned restaurants and the unemployment, underemployment, and impoverishment of thousands of food service workers in New York. Destitution among workers can be traced in large part to the subminimum wage for tipped workers, still $2.13 an hour at the Federal level. A legacy of slavery, the subminimum wage for tipped workers persists in New York and in 42 other states, which has subjected a largely female workforce of servers, bartenders, bussers, and others to economic instability and the highest rates of sexual harassment of any industry for decades. Thus far through the pandemic, 60% of tipped workers report being unable to access unemployment insurance because their subminimum wage was too low to meet minimum state thresholds for benefits qualification.

Now, thousands of tipped service workers in New York are returning to work as many restaurants have re-opened for indoor dining. No previous study, however, has thoroughly documented service workers’ experiences of returning to work in restaurants during the pandemic. Understanding these workers’ experiences is critical not only to addressing the needs of these workers and their families, but also to stemming the growing public health crisis. In the state of New York, 68,000 people have contracted the COVID-19 virus in the last seven days. The CDC reported in September 2020 that adults are twice as likely to contract the virus after eating in a restaurant. Food service workers have become essential workers and de facto public health marshals, enforcing critical mask and social distancing protocols in one of the pandemic’s most dangerous spreading environments. Unfortunately, unlike all other essential workers, they are not routinely guaranteed a standard minimum wage and thus live at the mercy of customers’ tips.

While the nation braced for the second wave of the pandemic, from October 20 to November 10, One Fair Wage surveyed thousands of food service workers across five states — New York, New Jersey, Pennsylvania, Massachusetts, and Illinois — and Washington DC, and listened to their experiences of working through the largest public health crisis in a generation. This brief discusses findings for New York state, with a particular focus on the impacts for workers in Upstate New York.

### HOSTILITY TO PUBLIC HEALTH MEASURES

When enforcing COVID-19 public health measures in their restaurants, workers often encounter customers who combine physical aggression with diminished or withheld tips as financial retribu-

<table>
<thead>
<tr>
<th>Experienced or witnessed hostile behavior from customers in response to staff enforcing COVID-19 safety protocols</th>
<th>New York</th>
<th>State of NY</th>
<th>All States Surveyed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felt reluctant to enforce COVID-19 safety protocols upon customers out of concern that customer would tip less</td>
<td>New York</td>
<td>State of NY</td>
<td>All States Surveyed</td>
</tr>
<tr>
<td>Received a decreased tip from a customer in response to enforcing COVID-19 safety protocols</td>
<td>New York</td>
<td>State of NY</td>
<td>All States Surveyed</td>
</tr>
</tbody>
</table>

### TABLE 1

Customer Harassment and Impact on Tipping
tion. Unfortunately, workers are thus presented with the impossible task of policing the customers who directly subsidize their wages with tips and are understandably reluctant to do so. Workers who receive a full minimum wage with tips on top would be better positioned to enforce the public health guidelines on customers that keep everyone safe.

SEXUALIZATION AND SEXUAL HARASSMENT

The present subminimum wage system forces workers in the food service industry — a majority whom are women and disproportionately women of color — to tolerate a rate of sexual harassment higher than that of any other industry. Based on the testimonies from hundreds of surveyed workers, findings show that the COVID-19 pandemic has left the industry in worse shape than previously, with a significant proportion of workers reporting increased levels of sexual harassment from customers. In fact, workers from Upstate New York have experienced an increase in the rate of sexual harassment far higher (57%) than that of the national average (41%).

The following are instances of sexualization and sexual harassment which workers in Upstate New York shared with One Fair Wage:

“Usually, people ask you to take your mask off to see your face — or stranger advances into your space and when you make it clear to them that they’re invading they make some offbeat COVID-19 joke.”

“They said ‘I can’t ever see myself socially distancing myself from your ‘sexy ass.'”

“I bet you’re so hot under that mask — I wouldn’t be able to stay 6 ft from you — Come back to my place, we don’t have to wear masks”

Without a livable minimum wage, workers are left to either endure such sexualization, or protest and jeopardize their tips and their financial stability. Once One Fair Wage is passed, workers can begin to move past these discriminatory alternatives.
TIPPING AND THE SUB-MINIMUM WAGE

Alarmingly, workers consistently told One Fair Wage that their tips have taken a sharp decline since the start of the pandemic — workers in Upstate New York almost unanimously (97%) reported a decline in tips, with 82% describing their tips as decreasing by at least half. Consequently, workers are growing reluctant to enforce COVID-19 measures on antagonistic customers for fear of losing more of their already diminished earnings. As a result, workers are routinely forced to forgo their health and safety in favor of even a modicum of economic security because the subminimum wage alone cannot sustain them with decreasing tips. Beyond that, there is widespread lack of enforcement of employers making up the difference between the sub-minimum wage and the minimum wage.⁸

TABLE 3
COVID-19 Impact on Tipping

<table>
<thead>
<tr>
<th>Report that tips have decreased since COVID-19</th>
<th>New York</th>
<th>State of NY</th>
<th>All States Surveyed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>97%</td>
<td>79%</td>
<td>83%</td>
</tr>
<tr>
<td>Report that tips have decreased since COVID-19 by at least 50% or more</td>
<td>82%</td>
<td>57%</td>
<td>66%</td>
</tr>
</tbody>
</table>

CONCLUSION

The COVID-19 pandemic has expanded the underlying hostility, sexualization, and economic precarity in the food service industry, perpetuated by the tipped subminimum wage system. Once again, New York must take the lead and continue to heed science and proactively pursue life-saving public policy measures to ensure that workers asked to enforce public health protocols in the highest-risk locations — restaurants — be paid a full minimum wage with tips on top. These actions will empower workers to enforce the public health measures which protect everyone against the COVID-19 virus. Just as New York led the charge in public health policy when NYC emerged as the epicenter of the COVID-19 pandemic, it is time for New York to once again lead by example. By enacting One Fair Wage legislation, New York can make a tangible impact.

ENDNOTES

6 https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days