

ONE FAIR WAGE FACTSHEET



The subminimum wage for tipped workers, still \$2.13 an hour at the federal level, is a legacy of slavery that disproportionately affects women and people of color. It is an economic, racial and gender justice issue that has only worsened since the onslaught of COVID-19. With the pandemic, the subminimum wage has become a critical barrier to ensuring public health, as restaurant workers forced to rely on diminishing tips fear enforcing safety measures upon the very customers who pay the majority of their wages.

We need to fix this. We need One Fair Wage.

The restaurant industry is the largest and fastest growing sector of the US economy, but also the lowest paying. That is largely due to the subminimum wage for tipped workers, still \$2.13 an hour at the federal level. Although many states have a subminimum wage that is higher than \$2.13 an hour, 43 states have persisted with a subminimum wage for tipped workers, and nearly 40 of those states have a subminimum wage for tipped workers that is \$5 or less.

At Emancipation, the restaurant lobby sought to hire newly freed slaves, not pay them anything, and have them live on tips – a mutation of the original concept of tips, which were meant to be a bonus not wage replacement.¹ **There are seven states that have raised the tipped minimum wage to the full minimum wage with tips on top, establishing One Fair Wage.** In those states poverty is lower, restaurant receipts are higher, AND tipping is the same, if not better, than everywhere else.² Those seven states also have half the rate of sexual harassment in the restaurant industry, the industry with the highest rate of sexual harassment claims in the country.³ During the COVID-19 economic crisis this win-win policy is critical for everyone.

The Subminimum Wage is a Public Health Crisis

- * Recent research published by the CDC found that adults who tested positive for COVID-19 were approximately twice as likely to have reported dining at a restaurant than were those with negative test results.⁴ Furthermore, compared to a number of other potential exposure activities participants reported that they were less likely to see customers adhering to recommendations such as wearing a mask or social distancing.⁵
- * In numerous states around the country, restaurant workers are reporting that tips are down 50-70%.⁶ This extreme loss of income directly counters a worker's incentive to enforce COVID-19 safety measures upon their customers, from whom they rely on tips to make up their minimum wage. Paying workers a full minimum wage so that they are not relying on declining tips for the majority of their wages and thus feel some security in enforcing public health protocols has become a public health emergency.

One Fair Wage is a Gender and Racial Equity Cornerstone for Restaurant Workers

- * Seventy of tipped workers are women who largely work at casual restaurants like IHOP and Denny's and struggle with the highest rates of economic insecurity and sexual harassment of any industry because they must tolerate inappropriate customer behavior to feed their families in tips.⁷
- * Overall, 45% of restaurant workers are people of color who mostly face exclusion from the relatively few well paying fine-dining establishments and positions.⁸ Research shows only 22% of people of color and 43% of women are employed in the highest paying front of the house positions in fine dining establishments.⁹
- * Even when people of color and women are admitted into higher-tipping establishments, research has shown that, on average, customers tip white servers more than they tip Black servers.¹⁰
- * These culminating issues result in a \$4.79 national race and gender wage gap between tipped restaurant workers who are white men and Black women.¹¹

During COVID-19 the Subminimum Wage has Further Impoverished Workers

- * Of the millions of workers who lost their jobs as a result of COVID-19, 1 in 4 was a restaurant worker, yet surveys show an estimated 60% were unable to access unemployment insurance because they were told by multiple states that their subminimum wage plus tips was too low to qualify to meet the minimum threshold to qualify for benefits.^{12,13}
- * Newly jobless restaurant workers in subminimum wage states were forced to live off of unemployment insurance based on a subminimum wage, plus tips, while workers in One Fair Wage states received unemployment insurance calculated on a full minimum wage, plus tips.¹⁴
- * The lack of benefits resulted in a severe crisis for workers, with millions struggling to feed their families and pay for rent and basic utilities. Of the 220,000 workers who applied to our One Fair Wage Tipped and Service Workers' Emergency Relief Fund, 90% reported that they did not have enough money for two weeks of groceries, and 90% reported that they could not afford to pay the rent.¹⁵

Raising the Tipped Minimum Wage is Good for Employers and Workers

- * Since the COVID-19 pandemic, the restaurant industry is moving toward One Fair Wage, per the industry's trade publication *National Restaurant News*. From New York to San Jose, New Hampshire to Detroit, owners and workers are striking unity deals and employers (from celebrity restaurateurs to mom-and-pop diners) are choosing "high road" practices to ensure a stable workforce and pay One Fair Wage with tips on top.

ONE FAIR WAGE STATES:

Alaska
California
Minnesota
Montana
Nevada
Oregon
Washington

- * The seven states that require all employers to pay One Fair Wage – a full minimum wage with tips on top – maintain thriving restaurant industries and strong employment.¹⁶
- * Historically restaurant sales growth is higher in states that require employers to pay the full minimum wage to tipped workers. Restaurant sales in One Fair Wage states grew by 17 percent, according to 2017-2018 restaurant trade lobby estimates, compared to 15.6 percent in subminimum wage states.¹⁷ California, a One Fair Wage state, had the highest restaurant sales, topping over \$97 million, reflecting an annual restaurant sales increase of 18 percent.¹⁸
- * Restaurant sales per capita are higher in states that require employers to pay the full minimum wage to tipped workers. Restaurants in One Fair Wage states saw 2018 average sales of \$1.11 million per eating and drinking establishment, and \$64,000 per employee, compared to sales of \$1.06 million per establishment and \$57,000 per employee in subminimum wage states.¹⁹

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- * Full service restaurant employment (FSRE) growth rates are higher in states that require employers to pay the full minimum wage to tipped workers. Tipped workers in California and Nevada earn a minimum wage of \$12 and \$8.25 an hour before tips, respectively, and those two states have the fastest and third fastest rates of restaurant employment growth in the country.^{20,21}
- * Tipped workers in all of the One Fair Wage states continue to earn significant income in tips. Before COVID-19 customers left on average around 16 percent in tips in both One Fair Wage and subminimum wage regions.²²
- * Tipping amounts reported by workers do not statistically vary between One Fair Wage and subminimum wage regions. However, among higher earners, servers in equal treatment cities report higher wages and higher tips than their counterparts in unequal treatment states.²³ Servers earn the highest tips in San Francisco, higher than in other major metropolitan areas.²⁴

The Subminimum Wage Opens the Door to Wage Theft

- * Although federal law requires employers to ensure that tips bring workers to the full minimum wage or else pay workers the difference, in investigations of over 9,000 restaurants, the federal Department of Labor found that 84 percent of restaurants were in violation of wage and hour laws and 1,200 of those violations were for failure to bring tipped workers' wages up to the minimum wage.²⁵ As a result, the restaurant industry is the largest employer of workers who earn less than the minimum wage.²⁶
- * Major chains such as Darden routinely settle cases of wage theft for millions of dollars. In a recent case, TGI Friday's agreed to settle a wage lawsuit for \$19.1 million dollars.
- * Even if there were 100% compliance with this rule rather than 16% compliance, the subminimum wage would still force a workforce of mostly women and disproportionately women of color to live off tips as a majority of their income, subjecting them to sexual harassment and racial inequity as described above.



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*** At a time of unprecedented economic and health crisis, we need to protect one of our largest and fastest-growing workforces. One Fair Wage for all workers, regardless of industry, is now critical not only to overcome a legacy of slavery that perpetuates gender and race discrimination, but now also to ensure the survival of this essential frontline workforce.**



onefairwage.org

1 Segrave, K. (2009). *Tippling: An American Social History of Gratuities*. McFarland.

2 National Restaurant Association (2017). 2017 National Restaurant Association Restaurant Industry Outlook [Online]. Available at: https://www.restaurant.org/Downloads/PDFs/News-Research/2017_Restaurant_outlook_summary-FINAL.pdf. Accessed 2/5/2018.

3 Restaurant Opportunities Centers United, *The Great Service Divide: Occupational Segregation & Inequality in the U.S. Restaurant Industry* (New York, NY: ROC United, 2014).

4 Fisher KA, Tenforde MW, Feldstein LR, et al. Community and Close Contact Exposures Associated with COVID-19 Among Symptomatic Adults ≥18 Years in 11 Outpatient Health Care Facilities – United States, July 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:1258–1264. DOI: <http://dx.doi.org/10.15585/mmwr.mm6936a5>

5 Ibid.

6 *A Persistent Legacy of Slavery: Ending the Subminimum Wage for Tipped Workers as a Racial Equity Measure*. (2020). One Fair Wage. https://onefairwage.com/wp-content/uploads/2020/08/OFW_LegacyOfSlavery_USA-1.pdf

7 Restaurant Opportunities Centers United, "The Glass Floor: Sexual Harassment in the Restaurant Industry," New York, NY, October 2014.

8 See note 3.

9 Ibid.

10 Lynn et al., (2008). Consumer Racial Discrimination in Tipping: A Replication and Extension. *Journal of Applied Social Psychology*, 38(4), pp.1045–1060.

11 See note 5.

12 Bureau of Labor Statistics. "The Employment Situation – April 2020." Bureau of Labor Statistics. <https://www.bls.gov/news.release/pdf/empst.pdf>

13 *Locked Out by Low Wages*. (2020). One Fair Wage. https://onefairwage.com/wp-content/uploads/2020/05/OFW_LockedOut_UI_COVID-19_-FINALUPDATE.pdf

14 Ibid.

15 Ibid.

16 Reyes, T. (2018). One Fair Wage: Supporting Restaurant Workers and Industry Growth. In T. Andreason, S. Greene & C. E. Prince, H., and Van Horn (Eds), *Investing in Work* [Volume 2, pp 27–41]. Atlanta, GA: Federal Reserve Bank of Atlanta.

17 National Restaurant Association (2019). *State Statistics: 2017 and 2018 Estimated Sales, Eating and Drinking Establishments, and Eating and Drinking Places' Employees by state*. Estimated sales weighted by 2018 number of eating and drinking establishment employees.

18 Ibid.

19 Ibid.

20 Department of Labor, 2019. *Minimum Wages for Tipped Employees*. Wage and Hour Division.

21 ROC United analysis of Quarterly Census of Employment and Wages, Bureau of Labor Statistics. 2012–2017 data for 722 food services and drinking places.

22 ROC United, 2018. *Better Wages, Better Tips: Restaurants Flourish with One Fair Wage*. New York, NY: ROC United.

23 Ibid.

24 Ibid.

25 Allegretto, Sylvia, and David Cooper. 2014. *Twenty-Three Years and Still Waiting for Change*. Economic Policy Institute, Briefing Paper #379. <http://www.epi.org/publication/waiting-for-change-tippedminimum-wage/>.

26 Bureau of Labor Statistics, March 2018. Report 1072: *Characteristics of minimum wage workers, 2017*.