

# ONE FAIR WAGE

## THE KEY TO SAVING THE NEW YORK STATE RESTAURANT INDUSTRY POST-COVID 19



**THE SUBMINIMUM WAGE for tipped workers is 66% of the overall minimum wage and ranges from \$8.35-\$10.40 an hour in the state of New York.** A direct legacy of slavery,

the subminimum wage impacts nearly 300,000 tipped workers who are 55% women and over 50% people of color,<sup>1</sup> and an overall restaurant workforce of over 550,000 workers in New York.<sup>2</sup> While some tipped workers in New York received One Fair Wage at the end of 2019 (nail salon workers and car wash workers among others), restaurant workers, who constitute the majority of tipped workers, were left out. This majority-female workforce continue to suffer higher rates of sexual harassment and economic hardship as a result. We need the Governor to take Executive Action to pass One Fair Wage for tipped restaurant workers and for the legislature to pass S 808/A2244 to institutionalize One Fair Wage for all workers.

### 1 The Subminimum Wage Is a Legacy of Slavery

- ◆ After Emancipation, the restaurant industry sought to hire newly freed Black people without paying them, forcing them to live on tips.<sup>3</sup> This concept was made law, excluding a workforce of mostly Black women from the full minimum wage, even when other workers received the federal minimum wage as part of the New Deal in 1938.<sup>4</sup>
- ◆ Today, New York remains one of 43 states that persists with this legacy of slavery, and has allowed a workforce that is overwhelmingly women and disproportionately women of color to continue to receive a subminimum wage 150 years since Emancipation.<sup>5</sup>

### 2 The Subminimum Wage Was Always a Source of Economic, Race and Gender Injustice

- ◆ The subminimum wage for tipped workers was a problem long before the pandemic for a workforce of several hundred thousand tipped workers in New York who are overwhelmingly women working in casual restaurants and bars.<sup>6</sup>
- ◆ These workers have struggled with twice the poverty rate of other workers and the highest rates of sexual harassment of any industry because they must tolerate inappropriate customer behavior to feed their families in tips.<sup>7,8</sup>

- ◆ New York has an hourly wage gap of nearly \$8 an hour between Black women and white men tipped workers, which is among the highest rates of racial disparity among tipped workers of any state in the U.S. Forcing this workforce to rely on tips rather than a full base wage subjects them to customer bias in tipping, resulting in this wage gap.<sup>9</sup>

### 3 Seven States Are Faring Better With One Fair Wage

- ◆ For decades, 7 states have done it differently: CA, OR, WA, NV, MT, AK and MN all require a full minimum wage with tips on top.<sup>10</sup>
- ◆ These 7 states have higher restaurant job growth rates, small business growth rates, and tipping averages than New York; they also have one half the rate of sexual harassment in the restaurant industry and lost fewer restaurants during the pandemic than New York.<sup>11,12</sup>

### 4 The Pandemic Made the Subminimum Wage a Matter of Life and Death

- ◆ With the pandemic, the subminimum wage for tipped workers changed from an economic, race and gender injustice to one of life and death.
- ◆ Six million restaurant workers lost their jobs with the pandemic shutdown in March 2020. Nearly half a million workers in New York who lost their jobs were in the restaurant industry, but 90% of restaurant workers reported they couldn't access unemployment

benefits because they were told their subminimum wage was too low to qualify for benefits.<sup>13</sup>

- ◆ Hundreds of thousands of tipped workers went back to work last summer; nearly 57% of New York workers report their tips have decreased by at least half because sales were down.<sup>14</sup>
- ◆ Meanwhile, customer hostility, health risks and harassment increased, with women tipped workers being asked to remove their masks so men could judge their looks and their tips on that basis.<sup>15</sup>
- ◆ Tipped workers were put in the impossible situation of having to enforce COVID protocols on the same restaurants from whom they had to get tips to survive.

## 5 The Wage Shortage: Workers Are Refusing to Work Without One Fair Wage

- ◆ With the pandemic driving tips down and harassment up, this life threatening situation for service workers resulted in over 145,000 workers leaving the industry in New York — a 21% decline in the overall workforce, the largest decline in restaurant employer of any US state.<sup>16</sup>



**Hundreds of thousands of New York tipped workers are leaving the restaurant industry and are not willing to return without One Fair Wage, and hundreds of New York employers are now paying One Fair Wage to recruit staff and seek a level playing field — the time to pass One Fair Wage is now.**

- ◆ In May, 50% of those who remain in the New York restaurant industry reported that they are considering leaving; 90% say the only thing that will make them stay or return to working in restaurants is a full livable wage with tips on top.<sup>17</sup>

## 6 Hundreds of New York State Restaurants Are Now Paying One Fair Wage

- ◆ As a result of this exodus, we've documented 3,000 restaurants nationally and over 300 in New York who are now paying One Fair Wage to recruit staff.<sup>18</sup>
- ◆ Many of these independent restaurants have joined forces with workers to call for One Fair Wage policy for two reasons:
  - 1) they say they need a level playing field, and
  - 2) they say they need policy to send a signal to millions of workers that these are permanent wage increases and it's worth coming back to work in restaurants.<sup>19</sup>
- ◆ With 50% of workers who remain saying they're leaving, New York restaurants are not able to fully reopen unless we pass One Fair Wage.<sup>20</sup>

<sup>1</sup> OFW analysis of IPUMS CPS March 2021 dataset filtering by statefip and occ{4522,4525,4055,4530,4500,4040,4060,4130,4120,4400,4510,4150,3630,4520,9350,4420,4110} / occ{4040,4060,4110,4120,4130,4150,4160,4140,4000,4010,4020,4030}. Dataset created by "Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles, J. Robert Warren and Michael Westberry. Integrated Public Use Microdata Series, Current Population Survey: Version 9.0 [dataset]. Minneapolis, MN: IPUMS, 2021. <https://doi.org/10.18128/DO30.V9.0>".

<sup>2</sup> U.S. Bureau of Labor Statistics. (2021). NAICS Codes 7132, 7139, 7211, 722, 8121. Quarterly data 2019–2021, All establishment sizes. Quarterly Census of Employment and Wages.

<sup>3</sup> One Fair Wage. (February 2021). Ending a Legacy of Slavery: How Biden's COVID Relief Plan Cures the Racist Subminimum Wage. [https://onefairwage.site/wp-content/uploads/2021/02/OFW\\_EndingLegacyOfSlavery-2.pdf](https://onefairwage.site/wp-content/uploads/2021/02/OFW_EndingLegacyOfSlavery-2.pdf).

<sup>4</sup> Segrave, Kerry. (1998). Tipping: An American Social History of Gratuities. McFarland.

<sup>5</sup> US Department of Labor. (2020). Minimum Wages for Tipped Employees. <https://www.dol.gov/agencies/whd/state/minimum-wage/tipped>.

<sup>6</sup> ROC United. (2015). Ending Jim Crow in America's Restaurants: Racial and Gender Occupational Segregation in the Restaurant Industry. New York, NY: ROC United. <https://chapters.rocunited.org/publications/ending-jim-crow-in-americasrestaurants/>.

<sup>7</sup> Allegretto, S. et al. (July 2014). Twenty-Three Years and Still Waiting for Change: Why It's Time to Give Tipped Workers the

Regular Minimum Wage. Economic Policy Institute. <https://www.epi.org/publication/waiting-for-change-tipped-minimum-wage/>.

<sup>8</sup> One Fair Wage. (March 2021). The Tipping Point: How the Subminimum Wage Keeps Income Low and Harassment High. [https://onefairwage.site/wp-content/uploads/2021/03/OFW\\_TheTippingPoint\\_3-1.pdf](https://onefairwage.site/wp-content/uploads/2021/03/OFW_TheTippingPoint_3-1.pdf).

<sup>9</sup> One Fair Wage (February 2021). Ending a Legacy of Slavery: How Biden's COVID Relief Plan Cures the Racist Subminimum Wage. [https://onefairwage.site/wp-content/uploads/2021/02/OFW\\_EndingLegacyOfSlavery-2.pdf](https://onefairwage.site/wp-content/uploads/2021/02/OFW_EndingLegacyOfSlavery-2.pdf).

<sup>10</sup> ROC United, (2018). Better Wages, Better Tips: Restaurants Flourish with One Fair Wage. <https://eofnetwork.org/wp-content/uploads/2019/10/Better-Wages-Better-Tips.pdf>.

<sup>11</sup> *Ibid.*

<sup>12</sup> ROC United. (2014). The Great Service Divide: Occupational Segregation & Inequality in the US Restaurant Industry. [https://chapters.rocunited.org/wp-content/uploads/2014/10/REPORT\\_The-Great-Service-Divide2.pdf](https://chapters.rocunited.org/wp-content/uploads/2014/10/REPORT_The-Great-Service-Divide2.pdf).

<sup>13</sup> Locked Out By Low Wages: Service Workers' Challenges with Accessing Unemployment Insurance During COVID-19. (2020). One Fair Wage. [https://onefairwage.site/wp-content/uploads/2021/06/OFW\\_WageShortage\\_NY.pdf](https://onefairwage.site/wp-content/uploads/2021/06/OFW_WageShortage_NY.pdf).

<sup>14</sup> Upstate NY Food Service Workers Experience of Health and Harassment During COVID-19 (December 2020). One Fair Wage. [https://onefairwage.site/wp-content/uploads/2020/12/OFW\\_COVID\\_WorkerExp\\_UNY.pdf](https://onefairwage.site/wp-content/uploads/2020/12/OFW_COVID_WorkerExp_UNY.pdf).

<sup>15</sup> The Subminimum Wage for Tipped Workers as a Public Health Crisis. (2020). One Fair Wage. [https://onefairwage.site/wp-content/uploads/2020/11/Subminimum-WageForTippedWorkers\\_US-1.pdf](https://onefairwage.site/wp-content/uploads/2020/11/Subminimum-WageForTippedWorkers_US-1.pdf).

<sup>16</sup> U.S. Bureau of Labor Statistics. (2021). NAICS Codes 7132, 7139, 7211, 722, 8121. Quarterly data 2019–2021, All establishment sizes. Quarterly Census of Employment and Wages.

<sup>17</sup> One Fair Wage (May 2021). One Fair Wage Worker Public Health Survey Data, Collected 10/20–4/21. It's a Wage Shortage, Not a Worker Shortage: Why New York Restaurant Workers are Leaving the Industry, and What Would Make Them Stay. [https://onefairwage.site/wp-content/uploads/2021/06/OFW\\_WageShortage\\_NY.pdf](https://onefairwage.site/wp-content/uploads/2021/06/OFW_WageShortage_NY.pdf).

<sup>18</sup> One Fair Wage. (August 2021). One Fair Wage Employer Database. [https://docs.google.com/spreadsheets/d/1-vFr82dPJwvnEkveapdTnwjpnKt84aDzp6MXxi\\_DMyc/edit#gid=144425502](https://docs.google.com/spreadsheets/d/1-vFr82dPJwvnEkveapdTnwjpnKt84aDzp6MXxi_DMyc/edit#gid=144425502).

<sup>19</sup> One Fair Wage. (September 2021). Raising Wages to Reopen: Restaurants Nationwide Raising Wages to Save Their Businesses After COVID-19. [https://onefairwage.site/wp-content/uploads/2021/09/OFW\\_RaisingWagesToReopen\\_3.pdf](https://onefairwage.site/wp-content/uploads/2021/09/OFW_RaisingWagesToReopen_3.pdf).

<sup>20</sup> One Fair Wage (May 2021). One Fair Wage Worker Public Health Survey Data, Collected 10/20–4/21. It's a Wage Shortage, Not a Worker Shortage: Why New York Restaurant Workers are Leaving the Industry, and What Would Make Them Stay. [https://onefairwage.site/wp-content/uploads/2021/06/OFW\\_WageShortage\\_NY.pdf](https://onefairwage.site/wp-content/uploads/2021/06/OFW_WageShortage_NY.pdf).