

DOING MORE FOR LESS

New York Restaurant Workers' Experiences
of Tips, Surcharges, Racial Inequity, and Why
They're Leaving the Industry During COVID-19

February 2021



EXECUTIVE SUMMARY

In September 2020, the New York City Council passed a bill to allow City restaurants to add a 10% surcharge to their bill.¹ The bill was passed in the context of a struggling restaurant industry and employers seeking additional revenue, but did not take into account equally struggling restaurant workers' experiences of increased exposure to health risks, hostility and harassment

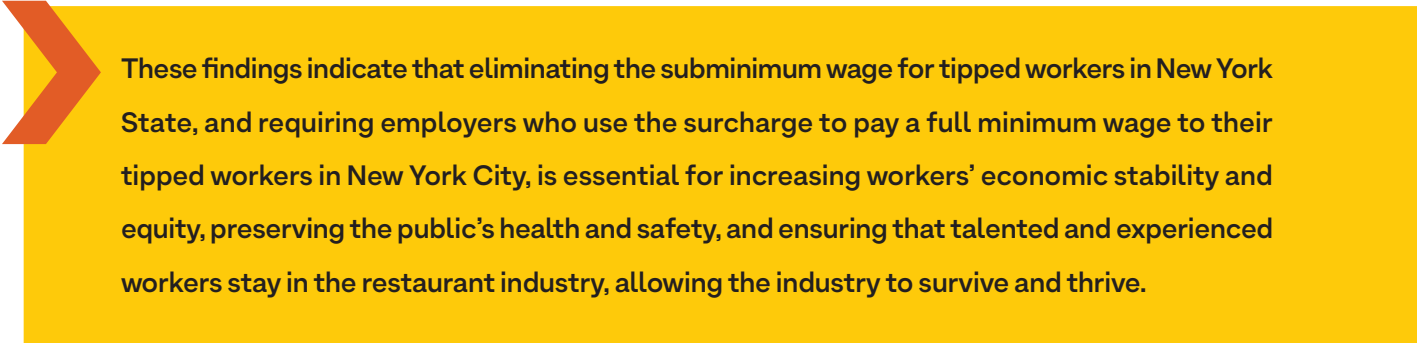
from customers while also earning far less in tips. The subminimum wage for tipped workers created a situation in which workers were vulnerable to customer hostility and harassment and unable to survive with the significant decline in tips. These experiences were exacerbated by racial inequity; Black workers in particular experienced a greater decline in tips and higher health risks. This report documents New York restaurant workers' experiences of the decline in tips and increase in health risks, how these experiences were exacerbated by the passage of the surcharge bill and racial inequality, and also how this combination of factors have motivated many talented hospitality workers to leave the New York City restaurant industry altogether.



KEY FINDINGS

- › **With the pandemic, 59% of all New York restaurant workers, and 75% of Black New York restaurant workers reported that their tips declined 50% or more.** Prior to the pandemic, Black women tipped workers in New York earned on average \$7.75 per hour less than their White male counterparts. With the pandemic, 372,000 New York restaurant workers lost their jobs,² 60% reported having challenges accessing unemployment insurance.³ With no safety net, millions of workers felt compelled to return to work, but found they were asked to do more work for far less in tips — and Black workers in New York felt this decline in tips even more profoundly than other workers.
- › **65% of all New York workers, and 71% of Black workers, reported their tips had decreased due to enforcing COVID-19 safety measures.** The subminimum wage for tipped workers created an impossible situation in which workers were forced to enforce public health rules on the same customers from whom they had to get tips to survive. All workers were penalized for trying to enforce these rules, but Black workers were penalized far more than white workers for trying to enforce social distancing and mask rules on a regular basis — making it more challenging for them to enforce these rules and thus further exposing themselves and the public to the virus.⁴

- › **Nearly 80% of all New York workers reported that their employers were not consistently following all COVID-19 safety protocols,⁵ and Black workers were far more likely to report that their employers were not following specific safety protocols that would protect them from the virus.** Black workers were far more likely to report that their employers did not require personnel to wear masks, provide them with personal protective equipment, send workers home upon showing COVID-like symptoms, and encourage workers to quarantine and get tested before returning to work.
- › **More than one third of all New York City workers (35%) reported that their employers were using the surcharge allowed by the New York City Council, and of those workers, 57% reported that their tips declined after their employer added the surcharge.** Many workers reported that the surcharge created confusion among consumers, who assumed that the surcharge was going to workers, and thus tipped less.
- › **Facing all of these challenges, nearly 4 out of 10 New York City restaurant workers (38%) report that they are considering leaving their job.** Of these workers, 50% said they are leaving because of COVID concerns, and 41% said they are leaving because of low wages and tips. Two thirds of these workers (66%) said that a full, stable livable wage would make them stay in the industry; livable wages were by far the most popular factor workers chose that would make them stay in the industry.



These findings indicate that eliminating the subminimum wage for tipped workers in New York State, and requiring employers who use the surcharge to pay a full minimum wage to their tipped workers in New York City, is essential for increasing workers' economic stability and equity, preserving the public's health and safety, and ensuring that talented and experienced workers stay in the restaurant industry, allowing the industry to survive and thrive.

1 | INTRODUCTION

Before the pandemic, the restaurant industry was one of the largest and fastest-growing industries in New York State, with over 703,000 restaurant workers and 471,000 tipped workers.⁶ Even prior to the pandemic, 8 out of 15 of the lowest paying jobs fell within the restaurant industry, 7 of which were tipped positions.⁷ Post-pandemic, restaurants claim the highest employment losses compared to all other industries.⁸ As COVID-19 forced the closure of hundreds of restaurants in New York, as well as other tipped personal service occupations such as nail salon, car wash, airport, and parking attendants, and tipped gig workers, the tipped workforce plummeted even deeper into poverty and financial insecurity.⁹



These workers' low pay is a result of the subminimum wage for tipped workers, a legacy of slavery that emerged during the era following Emancipation to exploit recently freed people, particularly Black women.¹⁰ Tipping originated in Europe as an extra or bonus on top of a wage and was passed down through wealthy travelers to America. In the U.S., tipping was initially a controversial practice, but gradually became widespread amongst employers as a means to avoid paying workers a livable wage.¹¹ This was especially true for the railroad and hospitality industries, which were the largest employers of African Americans at a time when they were restricted from most jobs aside from field labor.¹² This legacy of white supremacy and undervaluing Black workers continues today.

Today, New York is one of 43 states across the country that still subjects tipped workers to a subminimum wage by law.¹³ Even with tips, New York tipped restaurant workers are twice as likely to live in poverty and rely on food stamps as the general workforce.¹⁴ Tipped workers in subminimum wage states also suffer from twice the rate of sexual harassment compared to the seven states that offer a full wage with tips on top.¹⁵

Today, restaurant workers of color experience poverty at more than twice the rate of white restaurant workers, indicating that the racial inequality at the historical root of the subminimum wage has lasting impacts on inequities faced by tipped workers of color today.¹⁶

This report is based on surveys of over 450 New York State food service workers conducted online and over the telephone from October 6 through November 10, 2020, and a second survey of 344 New York City food service workers conducted online between January 25 and January 31, 2021. We emailed surveys to the over 18,778 applicants to the One Fair Wage Emergency Fund in New York. Of those who responded, 450 workers in New York State and 344 workers in New York City reported that they were currently employed, and were thus able to answer most of the questions.

2 | COVID-19'S IMPACTS ON NEW YORK STATE RESTAURANT WORKERS



FACING HIGHER RISKS

Nearly eighty percent of all New York State restaurant workers reported that their employer does not consistently follow all COVID safety protocols.¹⁷ Black workers were more likely to report that their employers did not following specific safety protocols, including requiring all personnel to wear masks and wash their hands frequently, providing personal protective equipment, performing COVID-19 symptom and temperature checks before workers start their shifts, and sending workers home — and encouraging them to quarantine — if they exhibited symptoms. All of these workers have been facing high risk environments, and Black workers report facing even higher risk environments.

TABLE 1 | Employee Safety Protocols Instructed by Employer NY

	NY	BLACK WORKERS
Employer consistently instructs employees to follow all COVID-19 safety protocols	21%	29%
Requires all personnel to wear masks at all times.	93%	80%
Requires all personnel to wash hands frequently.	83%	75%
Requires all personnel to maintain a distance of 6 feet at all times when possible.	57%	60%
Provides employees with Personal Protective Equipment	80%	65%
Before an employee begins shift a designated supervisor will perform a COVID-19 symptom and temperature check.	63%	55%
If an employee reports COVID-19 symptoms or has a fever at or above 100.4 °F [38 °C], supervisor or employer will immediately send them home, and require them to quarantine and get tested before returning to work.	77%	65%
Employer encourages employees who have possible exposure to COVID-19 to quarantine and get tested before returning to work.	73%	60%

Source: One Fair Wage New York State Tipped Worker Survey Data collected 10/20-11/20

EARNING LESS

Prior to the pandemic, New York already had one of the highest race wage gaps among tipped workers in the country; Black women tipped workers earned \$7.75 less than their white male counterparts due to being segregated into casual restaurants where less tips were available, and customer bias in tipping. With the pandemic, over 372,000 New York restaurant workers lost their jobs.¹⁸ After facing severe challenges in accessing unemployment insurance at relatively higher rates than other workers,¹⁹ many New York workers felt compelled to return to work in restaurants before they felt safe doing so. When they returned, they were asked to do more for less. Nearly 60% of all workers and 75% of Black workers reported that their tips declined during the pandemic by 50% or more, exacerbating the race wage gap that existed prior to the pandemic.

TABLE 2 Customer Harassment and Impact on Tipping

	ALL NYC WORKERS	BLACK WORKERS
Report that tips have decreased since COVID-19 by at least 50% or more	59%	75%
Felt reluctant to enforce COVID-19 safety protocols upon customers out of concern that customer would tip less	56%	56%
Has received a decreased tip from a customer in response to enforcing COVID-19 safety protocols	65%	71%

Source: One Fair Wage New York State Tipped Worker Survey Data collected 10/20-1/21



The Center for Disease Control (CDC) reported in September 2020 that adults are twice as likely to contract COVID-19 after eating in a restaurant.²⁰ In these restaurants, workers have become the de facto public health marshals, enforcing critical mask and social distancing protocols in one the pandemic's most dangerous spreading environments. A majority of New York State workers were more reluctant to enforce these rules for fear they would be tipped less than other workers, but a majority of all workers. Black workers are more likely to be retaliated against with lower tips due to enforcing COVID safety measures; **71% of Black workers in New York report that their tips have decreased due to enforcing COVID-19 safety measures, whereas a little over 65% of**

workers report this on average. In other words, Black tipped workers, who already earned less in wages and tips than their white counterparts prior to the pandemic due to customer bias,²¹ experienced an overall decline in tips during the pandemic, and then were more likely to be penalized for trying to maintain safety protocols for themselves and the public by earning even less in tips than their counterparts overall. Since Black workers were already more vulnerable to the pandemic given community health disparities, their tip penalty for attempting to enforce safety protocols impacts both their economic outcomes and their health outcomes.

All tipped workers also reported an increase in sexual harassment during the pandemic. Overall, 42% of New York state workers reported an increase in sexual harassment during the pandemic, with hundreds of women providing direct quotes from male customers asking them to remove their masks to judge their looks and therefore their tips on that basis.²²

Several BIPOC workers reported the kinds of comments they received from customers:

Customers asking for “verbal sexual favors.”

“I was asked to remove my mask — [a]customer was flirting and wanted to see my full face.”

“Being made fun of for being Gay.”

“Being hugged and talked to so closely to me without a mask and my employers not doing any single thing or saying [anything] for fear of retaliation.”

“They stare at my body and ask for me to remove mask”

“Men commenting that I should be forced to remove my mask to smile, or that I probably get “hit on less” since my face is covered. One dude called it ‘half a burka’ implying that burkas are only worn through coercion.”

“I wasn’t trying to go mouth-to-mouth” while gesturing at her crotch. Yes, she was pretty drunk.”

“Pull your mask down so I can see if you’re cute’ all the time. Gross.”

“Usually it’s creepy older men who want to see how ‘pretty that smile is’ [and] how I don’t need to be so far, their body is virus-free [and] can ‘warm me up.’”



3 | NEW YORK CITY RESTAURANT WORKERS' EXPERIENCES OF THE SURCHARGE

TABLE 3 NYC COVID-19 Surcharge Survey Results

ALL NYC WORKERS

Employer uses COVID-19 surcharge	35%
Experienced no change in tips since employer implemented a COVID-19 surcharge on customer bills	41%
Experienced a decrease in tips since employer implemented a COVID-19 surcharge on customer bills	57%

Source: One Fair Wage New York City restaurant worker survey data January 2021

TABLE 4 NYC COVID-19 Surcharge Survey Results

ALL NYC WORKERS

DESIRE TO LEAVE CURRENT JOB

Report they are considering leaving their job since COVID-19 outbreak	38%
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WHY WORKERS ARE LEAVING THEIR JOBS

Due to low wages and tips	41%
Due to concerns about COVID-19 safety	50%
Due to concerns of hostility and harassment from customers	9%

WHAT WOULD MAKE WORKERS STAY AT THEIR JOB

Full, stable, livable wage	66%
Paid sick leave	34%
Better COVID-19 safety protocols and enforcement	51%
Health benefits or insurance	33%

Source: One Fair Wage New York City restaurant worker survey data January 2021

After the New York City Council passed an ordinance in September 2020 allowing restaurants to add surcharges to their bill of up to 10%, some restaurants began adding 'COVID 19' surcharges on their menus. In January 2021, over one third 35% of New York City restaurant workers surveyed reported that their employer was using the surcharge. A clear majority of these workers (57%) reported that their tips — which a majority of workers reported were already 50% less than pre-pandemic levels — declined even further after their employer implemented the COVID-19 surcharge. Of the workers who reported a decline, 43% reported that the decline was 25% or more. The increased decline in tips exacerbates the vulnerability of these workers, both with regard to their economic stability and with regard to their exposure to sexual harassment. As described above, the decline means that they are earning far less income while being asked to do more — enforcing public health protocols — and facing more risk and vulnerability.

Not surprisingly given these conditions, nearly 4 in 10 New York City restaurant workers said that they are considering leaving their job. While half indicated that this was due to COVID concerns, 41% indicated that it was due to low wages and tips. Earning a full, stable, livable wage was by far the most popular factor that New York City restaurant workers indicated would make them stay at their job; a full two thirds (66%) chose a full, stable, livable wage as a reason to stay, 15 percentage points higher than any other factor. If New York restaurants hope to retain a significant portion of the workforce, New York State must enact livable wage policy that allows workers to remain in New York City restaurants.

4 | NEW YORK CITY MUST PROTECT WORKERS, AND NEW YORK STATE NEEDS ONE FAIR WAGE NOW

This report shows that this vulnerability and inability of New York to protect themselves and others is due to their dependence on tips as the majority of their wage and that this pattern has been true for tipped workers since Emancipation. This challenge can easily be overcome. Seven states — CA, OR, WA, NV, MT, MN, and AK — all require restaurants to pay a full minimum wage with tips on top. New York City can require restaurants that use the COVID-19 surcharge to pay a full minimum wage with tips on top, and New York State can enact One Fair Wage now.



ONE FAIR WAGE STATES

ALASKA
CALIFORNIA
MINNESOTA
MONTANA
NEVADA
OREGON
WASHINGTON

In January 2021, days before his inauguration, President Biden announced that his \$1.9 trillion COVID relief package would include a \$15 minimum wage and a full phase-out of the subminimum wage for tipped workers. The announcement reflects growing momentum among workers, employers and legislators to end the subminimum wage. The historic federal proposal would reduce the many of the inequities faced by Black workers over the last 150 years.

In the seven states that require One Fair Wage — a full minimum wage for tipped workers with tips on top — the race-gender wage gap between Black women and White men restaurant workers is \$3.53 — more than \$4 an hour less than the race wage gap in New York of \$7.75. This means that New York enacting One Fair Wage can reduce the race-gender wage gap in the New York restaurant industry by more than one half (54%).²³ Black tipped workers still earn less even in these states compared to all other races; however, they are less likely to live in poverty and rely on food stamps due to the higher, more stable base wage.²⁴

Enacting One Fair Wage nationwide has become a COVID-19 crisis concern, both for service workers and for public health. If restaurants are to reopen without significant new increases in COVID 19 and its variants, we must ensure that these workers are paid the full minimum wage and can thus enforce safety protocols and reject dangerous and demeaning sexual harassment from customers.

To help advance this policy, the consuming public can take several steps.

- 1 | Call on New York City Council to require One Fair Wage of all restaurants that add a surcharge to their bill, and urge Governor Cuomo to enact One Fair Wage as state policy.

- 2 | Support restaurants that are already moving to pay their workers a full minimum wage with tips on top. These restaurants can be found at www.highroadrestaurants.org.
- 3 | Encourage any restaurant you dine at or order from to transition to One Fair Wage, by asking to speak with the manager or owner, telling them that you would feel more safe as a customer if the workers were all paid the full minimum wage with tips on top, and asking them if you can connect them with RAISE High Road Restaurants, at www.highroadrestaurants.org.

If New York hopes to re-emerge from the pandemic with a destination restaurant industry, it must change policy to retain talented workers who are unable to protect themselves or feed their families on a subminimum wage.

ENDNOTES

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- 3 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.
- 4 *Ibid.*
- 5 Complete results for this part of the survey appear in Table 1. This statistic represents a calculation of survey respondents that report their employer does not consistently instruct employees to follow all COVID-19 safety protocols.
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- 15 See note 14.
- 16 See note 2.
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- 23 One Fair Wage analysis of the Current Population Survey Outgoing Rotation Group microdata U.S. Census Bureau CPS-ORG), (2017–2019). Analysis was done using Stata IC statistical software. Dataset was downloaded from the Center for Economic Policy Research center. Tipped positions include: food service managers, first line supervisors, bartenders, counter attendants, waiters and waitresses, food servers, non-restaurant, bussers and barbacks, and hosts and hostess. We include front of house supervisors, managers and hosts because in many restaurants these positions do receive tips, even if extralegally.
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