

SUPPORT A10710/S5567

END THE SUBMINIMUM WAGE FOR TIPPED WORKERS



BILL SPONSORS: Senator Jackson & Assembly-Member Gonzales-Rojas

New York restaurant workers and owners are struggling. Ending the subminimum wage for tipped workers will provide a level playing field to support restaurants and ensure workers earn a fair wage, i.e. a full minimum wage with tips on top. The subminimum wage for tipped workers is \$10 in New York City and \$8.80 in other parts of the state.¹

A direct legacy of slavery, the subminimum wage for tipped workers in New York impacts a workforce of nearly 330,000 tipped workers that is 58 percent women and 49 percent people of color.^{2,3} The overall restaurant industry is 625,000 workers in New York, with many marginalized communities overrepresented in subminimum wage positions including women, people of color and members of the LGBTQ community.^{4,5} This majority-female workforce continues to suffer higher rates of sexual harassment and economic hardship as a result.⁶

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

▶ The pandemic drove tips down and harassment up. Nearly half a million restaurant workers in New York lost their jobs. While hundreds of thousands of tipped workers have since gone back to work, nearly 57 percent of New York workers report their tips have decreased by at least half because sales were down.⁷ By May of 2022, over 50,000 workers had still not returned to the industry in New York.⁸

▶ 50 percent of those who remain in the New York restaurant industry reported that they are considering leaving; 90 percent say the only thing that will make them stay or return to working in restaurants is a full livable wage with tips on top.⁹

To Stabilize the Restaurant Industry, We Need to Eliminate the Subminimum Wage for Tipped Workers

▶ Over six hundred restaurants across New York have begun to pay a fair wage to attract workers.¹⁰

▶ Restaurants paying a fair wage say they need a level playing field and for the state

to act in order to send the signal that the wage increases are permanent and it's worth coming back to work in restaurants.¹¹

New York Tipped Workers Are Not Paid a Full Wage

▶ New York's tipped restaurant workers on average make just \$18,298 a year.¹² This is almost \$13,000 less than what a full time worker would make at \$15 per hour.

▶ From 2015 to 2023, while all other workers saw an increase to \$15 an hour, women of color tipped restaurant workers received a decrease from 85 percent of the wage to 66 percent of the wage.

▶ With the minimum wage now increasing to \$17 an hour and the tipped minimum wage remaining at \$8.80-10 an hour, restaurant workers will see a further decrease to 58 percent of the minimum wage.

▶ In other words, the restaurant industry is getting away with paying 42 percent less in wage costs that every other industry has to comply with.

▶ If this bill were passed, full-time women waiters and bartenders would see gains of \$10,400 per year.¹³

A10710/S5567 Will End the Tipped Subminimum Wage

A10710/S5567 gradually phases out the subminimum wage for tipped workers over three steps.

Here's what that looks like in real numbers:

	HOURLY MINIMUM WAGE	HOURLY TIPPED WAGE
01/01/24	\$16.00	\$12.77
01/01/25	\$16.50	\$14.88
01/01/26	\$17.00	\$17.00

OTHER ELEMENTS OF THE BILL:

- ▶ From 01/01/27, employers would not be allowed to pay tipped workers less than the full minimum wage.
- ▶ From 01/01/27, the tipped minimum wage would be indexed to inflation, as is now the case for the minimum wage.
- ▶ Enable tip sharing between front of the house and back of the house positions, such as cooks and dishwashers.
- ▶ Legally codify the phasing out of the subminimum wage for all other tipped and miscellaneous workers, which was done via executive action.

ORGANIZATIONAL SPONSORS United Auto Workers (UAW Region 9A), Western New York Area Labor Fed, SEIU 32BJ, Retail Wholesale and Department Store Union, Workers United NY NJ Regional Joint Board, New Immigrant Community Empowerment, Adhikaar for Human Rights and Social Justice, Worker Justice Center of New York, New York Communities for Change, Make the Road New York, Citizen Action of New York, Los Deliveristas Unidos, Restaurant Opportunities Center-NY, Metro Justice, Mixteca Organization, Fund Excluded Workers, Raise Up New York, PowHer NY, Strong Economy For All Coalition, Food Chain Workers Alliance, 13th Forward, Poor People's Campaign, New York Working Families Party, Our Revolution, National Employment Law Project, Uptown Progressive Action, Carroll Gardens Association, Citizens' Committee for Children of NY, Churches United for Fair Housing, Coalition for Economic Justice (Buffalo), Desis Rising Up and Moving, Sunrise Movement NYC, New York Progressive Action Network, Hunger Free America, The Legal Aid Society, Main Street Alliance, Legal Momentum, The Women's Legal Defense and Education Fund, Girls for Gender Equity, Zonta Brooklyn, American Association of University Women - Rockland County, Equal Rights Advocates, Coalition United for Equitable Urban Policy, Columbia County Sanctuary Movement, Human Services Council, For the Many, Center for NYC Affairs, The New School, Western New York Council on Occupational Safety and Health, A Better Balance, Community Service Society of New York, Center for Economic Justice, Sepa Mujer, Sexual Harassment Working Group, Worth Rises, Center for Disability Rights, Communication Workers Alliance 1180, and the National Federation of the Blind, NYC-Democratic Socialists of America Labor Branch, Mid-Hudson Valley DSA.

1 Minimum Wage for Tipped Workers, Department of Labor, New York State <https://dol.ny.gov/minimum-wage-tipped-workers>.
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4 OFW (June 2022) "No Pride In Subminimum Wages" https://onefairwage.site/wp-content/uploads/2022/06/OFW_LGBTQ_RestaurantWorkers.pdf.
5 OFW (January 2023) "New York Fact Sheet" https://onefairwage.site/wp-content/uploads/2022/10/OFW_FactSheet_NYS_2.pdf.
6 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/>.
7 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.

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