



**TESTIMONY TO THE MARYLAND STATE LEGISLATURE
SENATE FINANCE COMMITTEE
Regarding a Bill for One Fair Wage (S 803)
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My name is Saru Jayaraman, and I am the President of One Fair Wage and the Director of the UC Berkeley Food Labor Research Center. On behalf of the 269,000 service workers and over 2500 'high road' restaurant employers that belong to One Fair Wage, I thank you for allowing me to testify in support of S803, a bill for One Fair Wage in the State of Maryland.

The restaurant industry, and the service economy in general, is undergoing massive upheaval, with hundreds of restaurants in Maryland, and thousands nationwide, raising their wages to at least \$15 an hour plus tips in order to recruit staff at a time when workers are indicating they are unwilling to work for anything less. Senate Bill 803 is essential not only because workers are in crisis, but also because independent restaurateurs agree that they will not be able to fully reopen without policy change to raise wages and end the subminimum wage for tipped workers.

Even prior to the pandemic, the subminimum wage was problematic, as a direct legacy of slavery that disproportionately impacts the lives of women and people of color. At Emancipation, the service industry, namely railroad, hotel and restaurant lobbies, sought to hire recently-freed Black people and not pay them anything, forcing them to live entirely on tips.¹ This legacy continues today in 43 states, including Maryland, where tipped workers in the state can earn as little as \$3.63 an hour from their employers, and are required to make up the rest in tips.² In Maryland, the subminimum wage affects over 105,000 tipped workers of which 65 percent are women.³

Prior to the pandemic, the restaurant industry was the largest and fastest growing industry in the country - all while being the largest employer of tipped workers, who earn some of the lowest wages in the country. Tipped workers, who are more than two thirds majority women who work in casual restaurants earning very little in tips, live in poverty and rely on public assistance at double the rate of the general

¹ Jayaraman, Saru, *Forked: A New Standard for American Dining*, (Oxford University Press, 2016)

² U.S. Department of Labor. (September 2021). Minimum Wages for Tipped Employees. Wage and Hour Division.
<https://www.dol.gov/agencies/whd/state/minimum-wage/tipped>.

³ OFW analysis of American Community Survey data, 2016- 2020 5-Year Sample. Steven Ruggles, Sarah Flood, Ronald Goeken, Megan Schouweiler and Matthew Sobek. IPUMS USA: Version 12.0 [dataset]. Minneapolis, MN: IPUMS, 2022. <https://doi.org/10.18128/D010.V12.0>, U.S. Bureau of Labor Statistics and Federal Reserve Bank of St. Louis. (May, 2022). All Employees: Leisure and Hospitality: Food Services and Drinking Places in Maryland.
<https://fred.stlouisfed.org/series/SMU24000007072200001SA>

workforce.⁴ Tipped 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.^{5,6}

Women, in particular, faced the highest rates of sexual harassment when compared to all other industries.⁷ Women tipped workers experience even greater rates of sexual harassment than their non-tipped counterparts in the industry: over three quarters versus over half (76 percent vs. 52 percent).⁸ The pandemic has only made conditions worse for women and people of color in the industry.

Research has also shown that within the industry racial discrimination from employers and customers has yielded a wage gap between Black women and white men in 'front-of-house', tipped positions of \$6.19 per hour.⁹ As long as these workers must rely on tips to feed their families, they are subject to the biases and harassment of customers.

Unlike Maryland, seven states have always required a full minimum wage with tips on top - California, Oregon, Washington, Nevada, Minnesota, Montana and Alaska.¹⁰ These states have had the same or higher restaurant sales per capita, small business restaurant growth rates, restaurant industry job growth rates, and tipping averages as Maryland and the 43 states with a subminimum wage.¹¹ Workers in these 7 states have also reported one half the rate of sexual harassment as the states that allow tipped workers to be paid a subminimum wage as little as \$2.13 an hour.¹² With industry-wide wage increases, there is national momentum for change; in November 2022, 76 percent of Washington, DC voters voted to raise the wage for tipped workers from \$5.35 to the full minimum wage of \$16.10 per hour. With Maryland's subminimum wage for tipped workers frozen at \$3.63 per hour, Maryland restaurants will face an even greater staffing crisis than they have already faced.

Impact of the Pandemic

During the pandemic, service and tipped workers across the country faced significantly higher rates of job losses and economic insecurity, with losses highly

⁴ Allegretto, S. and Cooper, D. (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/>.

⁵ 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/>.

⁶ 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.

⁷ Johnson, S.K. and Madera, J. M. (January 2018). Sexual Harassment Is Pervasive in the Restaurant Industry, Here's What Needs to Change. Harvard Business Review.
<https://hbr.org/2018/01/sexual-harassment-is-pervasive-in-the-restaurant-industry-heres-what-needs-to-change>.

⁸ One Fair Wage. (March 2021). The Tipping Point: How the Subminimum Wage Keeps Income Low and Harassment High. New York, NY: One Fair Wage.
https://onefairwage.site/wp-content/uploads/2021/03/OFW_TheTippingPoint_3-1.pdf.

⁹ One Fair Wage. (September 2022). Intentional Inequality - Black Women's Equal Pay Day.
<https://onefairwage.site/intentional-inequality>

¹⁰ ROC United. (2018). Better Wages, Better Tips: Restaurants Flourish with One Fair Wage. New York, NY: ROC United. https://chapters.rocunited.org/wp-content/uploads/2018/02/OneFairWage_W.pdf.

¹¹ 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-GreatService-Divide2.pdf.

¹² Ibid.

concentrated among women of color¹³. In May of 2020, our survey found that as many as 60 percent of service workers either did not qualify or were unsure if they qualified for unemployment insurance.¹⁴ Many tipped workers returning to work in restaurants experienced sharp declines in tips, increased hostility in response to enforcing COVID-19 safety measures, and increased sexual harassment from customers. By December 2020, 41 percent of workers nationwide reported an increase in sexualized comments from customers.¹⁵ Hundreds of women shared stories of male customers asking them to take their mask down so that they could know how much to tip them.¹⁶

Workers Have Had Enough - Leaving the Industry

These conditions and the persistence of a subminimum have led many tipped and service industry workers in general to leave the industry altogether¹⁷. Restaurants have had to face an unprecedented reckoning in the form of a massive staffing crisis. To date, the U.S. Bureau of Labor Statistics reports that over 1.2 million restaurant workers nationwide and nearly 18,000 restaurant workers in Maryland have left their jobs, representing an all time high since BLS began data collection in 2000.^{18,19} Our survey found that over half (53 percent) of restaurant workers were considering leaving the industry and, unsurprisingly, over three-quarters (76 percent) reported their top reason for leaving was due to low wages and tips. This shift in power among tipped and service workers has spurred some restaurant owners and state governors to blame workers and prematurely cut unemployment benefits, which resulted in little to no effect on employment rates nor workers willingness to return to the industry for subminimum wages^{20,21}.

In response to the massive staffing crisis, thousands of restaurants nationwide, and hundreds in Maryland, have been raising wages in order to recruit enough staff to

¹³ Ewing-Nelson, C. (January 2021). All of the Jobs Lost in December Were Women's Jobs. National Women's Law Center. <https://nwlc.org/wp-content/uploads/2021/01/December-Jobs-Day.pdf>.

¹⁴ One Fair Wage. (May 2020). Locked Out By Low Wages: Service Workers' Challenges With Accessing Unemployment Insurance During COVID-19. New York, NY: One Fair Wage. https://onefairwage.site/wp-content/uploads/2020/11/OFW_LockedOut_UI_COVID-19_-FINALUPDATE.pdf.

¹⁵ One Fair Wage. (December 2020). Take off your mask so I know how much to tip you: Service Workers' Experience of Health & Harassment During COVID-19. New York, NY: One Fair Wage. https://onefairwage.site/wp-content/uploads/2020/12/OFW_COVID_WorkerExp_MA_4.pdf.

¹⁶ Ibid.

¹⁷ Selyukh, A. (July 20, 2021). Low Pay, No Benefits, Rude Customers: Restaurant Workers Quit At Record Rate. NPR. <https://www.npr.org/2021/07/20/1016081936/low-pay-no-benefits-rude-customers-restaurant-workers-quit-at-record-rate>.

¹⁸ Cheng, M. (October 13, 2021). US restaurant workers are quitting in record numbers. Quartz. <https://qz.com/2073439/us-restaurants-workers-are-quitting-their-jobs-in-record-numbers/>.

¹⁹ Bureau of Labor Statistics, U.S. Department of Labor, (2020). Private, NAICS 722 Food services and drinking places, Illinois Quarterly data 2019 - 2022 , All establishment sizes. Quarterly Census of Employment and Wages. https://data.bls.gov/cew/apps/table_maker/v4/table_maker.htm#type=17&from=2019&to=2022&qtr=1&wn=5&ind=722&area=17000&supp=1.

²⁰ Chaney-Cambon, S. and Dougherty, D. (September 2021). States That Cut Unemployment Benefits Saw Limited Impact on Job Growth. Wall Street Journal. <https://www.wsj.com/articles/states-that-cut-unemployment-benefits-saw-limited-impact-on-job-growth-11630488601>.

²¹ One Fair Wage. (July 2021). The Impact (or Lack Thereof) of Ending Unemployment Insurance on Restaurant Workers' Willingness to Work for Subminimum Wages. New York, NY: One Fair Wage. https://onefairwage.site/wp-content/uploads/2021/07/OFW_HelpWanted.pdf.

fully reopen²². Since September 2021, we have found more than 5,000 restaurants paying an average wage of \$13.50 plus tips²³. In Maryland, we have identified over 100 restaurants, providing at least the full minimum wage plus tips on top to servers, bartenders, and other front-of-house workers. Many of these restaurant owners have told us that they cannot do it alone; they need policy that will end the subminimum wage for tipped workers for two reasons: 1) to create a level playing field, in which all employers have to raise wages; and 2) they need policy that will signal to thousands of workers that there will be permanent policy change to raise wages that will make it worth returning to work in restaurants.

National Momentum and Support to Pass One Fair Wage

As a result of the massive upheaval in the restaurant industry, states across the country have been ending the subminimum wage for tipped workers.

President Biden has been a champion of raising the minimum wage to \$15 an hour and ending the subminimum wage for tipped workers, including this policy in his federal Raise the Wage Act that was part of his initial \$1.9 trillion COVID-19 relief package²⁴. In 2021, while addressing restaurant owners concerns regarding the labor shortage, President Biden urged employers to pay higher wages to workers, and specifically called out the need to pay tipped workers a \$15 minimum wage plus tips²⁵. By passing One Fair Wage, Maryland legislators can both align with President Biden's agenda and allow independent restaurant owners across the states to fully reopen, and their workforce to fully recover.

²²Black, J. (September 2021). How yo Make an Unloved Job More Attractive? Restaurants Ticker With Wages. New York Times. <https://www.nytimes.com/2021/09/20/dining/restaurant-wages.html>.

²³One Fair Wage. (September 2021). Raising Wages to Reopen: Restaurants Nationwide Raising Wages to Save Their Businesses After COVID-19. New York, NY: One Fair Wage. https://onefairwage.site/wp-content/uploads/2021/09/OFW_RasingWagesToReopen_3.pdf.

²⁴ Jacobson, L. (January 2021). What's in Joe Biden's \$1.9 trillion American Rescue Plan?. PolitiFact. <https://www.politifact.com/article/2021/jan/15/whats-joe-bidens-19-trillion-american-rescue-plan/>.

²⁵Brest, M. (July 2021). Biden tells restaurateurs to pay workers more amid labor shortage. Washington Examiner. <https://www.washingtonexaminer.com/news/biden-restaurant-increase-wages-labor>.