

Tipped Workers Bill Signed Testimony.pdf

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Position: FAV

ARTHUR ELLIS, CPA
Legislative District 28
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ASSISTANT DEPUTY MAJORITY LEADER

Finance Committee

Senate Chair
Joint Committee on the
Management of Public Funds

Chair, Charles, St. Mary's and Calvert
Counties' Senate Delegation



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January 31, 2024

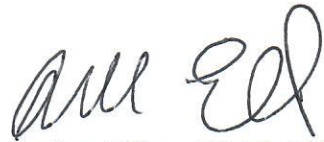
**Testimony of Senator Arthur Ellis in Support of Senate Bill 160: Labor and Employment –
Payment of Minimum Wage – Tipped Employees**

Dear Chair Beidle, Vice Chair Klausmeier, and Members of the Finance Committee:

Senate Bill 160 specifies a certain tip credit amount that is in effect for certain time periods; prohibits certain employers of tipped employees, beginning July 1, 2027, from including a tip credit amount as part of the employees' wages and requires the employer to pay an employee at least the State minimum wage; and requires the Commissioner of Labor and Industry to establish the High Road Kitchen Program as a recognition program for restaurants that do not include the tip credit as part of certain employees' wages.

I urge your favorable support on Senate Bill 160.

Yours in Service,


Arthur Ellis—District 28

Testimony SB160 (1).pdf

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Position: FAV

Testimony for the Senate Finance Committee

Wednesday, January 31st, 2024

SB 160 - Labor and Employment - Payment of Minimum Wage - Tipped Employees

Favorable

Hello Chair Beidle, Vice-Chair Klausmeier, and members of the Finance committee,

I write to urge your support for Senator Ellis' bill, SB 160. As someone who has worked in the restaurant industry for multiple years I have first hand experience of the difficulties and issues that arise from being paid a sub-minimum wage.

There have been countless instances where I would receive "paychecks" from my employer with zero dollars and zero cents. Their reasoning was that I had received the minimum wage in tips. Even though I personally knew that once taxes would be accounted for I would have made less than Maryland's minimum wage at the time.

History has shown that tipped wages was created as an extension of slavery to ensure Black workers, who predominantly made up tipped workers, would remain in poverty and that their income would be almost entirely determined by the personal feelings of people who saw themselves as superior. This treatment continues to this day, where customers have sexually harassed, made disrespectful and racist comments, and antagonized tipped employees, with the knowledge that they will get away with treating the employee like this sense their income is determined by how much they choose to tip.

Studies have shown that Black women are more likely to receive lower wages than any other race or group of people. I urge you to take a stand against this form of modern-day slavery by providing a favorable report on SB 160.

Respectfully,

Carlos Childs

SB0160_Payment_of_Minimum_Wage_Tipped_Employees_ML

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0160
Labor and Employment - Payment of Minimum Wage - Tipped Employees

Bill Sponsors: Senators Ellis and McCray

Committee: Finance

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Aileen Alex, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0160 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

Currently, tipped workers rely on the vicissitudes of customers' generosity to supplement their \$3.63 per hour wage paid by their Maryland employers. Tipping, a hold-over from slavery, perpetuates racism and sexism. Disadvantaged workers disproportionately work at lower-cost sit-down restaurants. In addition, tipped employees endure more harassment due to the unequal dynamic between these workers and their customers. A single minimum wage for all workers would not only rectify these injustices but reduce the poverty rate.

The Maryland Legislative Coalition believes servers and others who receive tips should receive the same minimum wage as everyone else, and with a law to require it, businesses will not be forced into unfair competition. We ask that the Committee issue a favorable report on SB0160.

We support this bill and recommend a **FAVORABLE** report in committee.

SB160_Maryland Center on Economic Policy_FAV.pdf

Uploaded by: Christopher Meyer

Position: FAV

Maryland's Minimum Wage Should Not Leave Tipped Workers Behind

Position Statement in Support of Senate Bill 160

Given before the Senate Finance Committee

Most Marylanders agree that working hard should leave you and your family with enough to afford the basics, and lawmakers and Gov. Moore affirmed this principle by enacting the Fair Wage Act of 2023. However, the tipped subminimum wage – a relic of racist New Deal-era compromises – forces too many workers to make do with wages that cannot support a family, let alone appropriately compensate for the hard work their jobs require. **The Maryland Center on Economic Policy supports Senate Bill 160** with sponsor amendment because it would put tipped workers on a path toward full minimum wage protection.

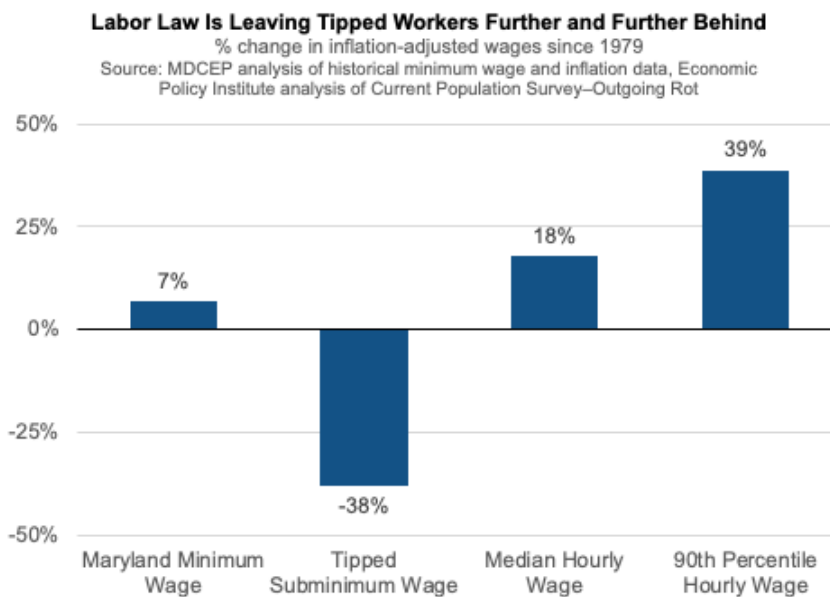
When Congress established the federal minimum wage in 1938, lawmakers specifically denied protections to workers in restaurants, hotels, and certain other service industries as a compromise to secure the support of racist southern Democrats.ⁱ Congress extended partial wage protections to these workers in 1966, but also created the subminimum wage, a carveout that allows employers to pay tipped workers less than the full minimum wage. The subminimum wage for tipped workers was unjust in 1966, and federal as well as state lawmakers have chosen to expand both its reach and its harm in the decades since:

- Congress originally imposed the subminimum wage on workers who regularly earn at least \$20 per month in tips, equivalent to more than \$180 today. Lawmakers raised this threshold to \$30 in 1978, equivalent to more than \$130 today. Lawmakers' failure to adjust this threshold in the last 46 years has effectively extended the tipped subminimum wage to a larger pool of workers who take home only nominal tips.ⁱⁱ
- Lawmakers originally set the tipped subminimum wage equal to half the standard wage floor. This brought the tipped wage to \$2.13 per hour in 1991, equivalent to \$4.71 today. However, Congress froze the federal tipped wage at this level in 1996 and has not updated it since.
- Maryland legislators have changed the formula for our tipped subminimum wage several times. It reached \$3.63 per hour in 2009 – half of the standard federal wage floor – and lawmakers froze it at this value in 2014. Our tipped wage has lost more than a quarter of its value since it was last updated.

The tipped subminimum wage most directly hurts workers by forcing them to live on deeply inadequate incomes:ⁱⁱⁱ

- Gradually eliminating the subminimum wage would boost incomes for about 51,000 Maryland workers, with a total impacts of \$530 million once fully phased in (\$10,350 on average).
- Workers benefiting from the bill include 10,000 parents.
- More than 80% of tipped workers are at least 20 years old and nearly half work full time.

- One-third of tipped workers have family income less than double the federal poverty line, and 42% have family income under \$50,000 per year.
- Nationwide, tipped workers are more likely than other workers to struggle to put food on the table.^{iv}
- Between housing, food, clothing, and other essentials, there is nowhere in Maryland where even a single adult, working full time and not caring for children, can afford a basic living standard on less than \$15 per hour.^v



The subminimum wage also entrenches inequity in our economy:

- 20% of tipped workers are Black and 15% are Latinx. Altogether, 47% of tipped workers are people of color. Research has found that diners systematically leave smaller tips for Black restaurant servers than white servers.^{vi}
- 60% of tipped workers are women. While sexual harassment occurs across all industries, it is more prevalent in the accommodation and food services industry, where women represent a majority of workers.^{vii}

Senate Bill 160 (with sponsor amendment) would put tipped workers on a path toward full minimum wage protection, eliminating the subminimum wage by January 1, 2027. This gradual approach prevents sharp cost increases for restaurants and other employers that exploit the subminimum wage. **Senate Bill 160 would increase tipped workers’ pay by \$208 million in 2025, increasing to \$530 million per year once fully phased in.**

“Backfilling” Requirement Provides Inadequate Protection

Defenders of the subminimum wage are quick to point to the requirement that employers make up for any deficit between a tipped worker’s total pay after tips and the minimum wage, claiming that this nullifies the harm caused by the subminimum wage. This argument does not hold water:^{viii}

- Enforcement of this “backfilling” provision requires workers to add their wages and tips, divide by hours worked, and proactively request reimbursement from the employer if there is a deficit. This process is complicated and cumbersome, especially for the large number of tipped workers whose hours are far from stable.
- Moreover, workers must contend with pressure from their boss – actual or suspected – to let underpayment slide. It is easy for a boss to reduce hours, deny advancement opportunities, or retaliate in other ways against a worker who insists on appropriate payment. As managers in tipped workplaces

already exercise significant discretion in scheduling and other decisions, such retaliation is difficult to prove.

- The subminimum wage twists the intended purpose of tipping, often without customers' knowledge. While customers typically leave a tip to compensate a worker for their labor or to reward a job well done, a portion of tips effectively subsidizes the employer's choice to pay less than the standard minimum wage. For a full-time worker (nearly half of all tipped workers), the first \$796 in tips for each pay period simply reduce the employer's pay responsibilities. Customers wind up unknowingly tipping the boss.

Long-Lasting Benefits

Ending the tipped subminimum wage would benefit Maryland families and children for decades to come. A large body of research shows that when families earn enough to afford the basics, the benefits ripple out to nearly every part of their lives. A 2013 systematic review of academic literature linked higher family incomes to:^{ix}

- Fewer families struggling to put food on the table
- Fewer underweight births and lower infant mortality
- Increased spending on children's clothing, reading materials, and toys
- Fewer behavioral problems, less physical aggression, and less anxiety among children
- Improved academic and cognitive test results, and more years of schooling completed

Guaranteeing a consistent wage floor is the right choice for Maryland's economy. Increased pay for low-wage workers who live paycheck to paycheck translates almost immediately into higher spending, which means stronger sales at local businesses. Evidence also shows that higher wages reduce employee turnover, which means more experienced workers and lower hiring costs.^x Family-supporting wages make Maryland a more attractive place to live and work, which means a deeper talent pool for employers to draw from.

Despite dire predictions from minimum wage opponents, a robust body of credible research shows no significant link between the minimum wage and the number of jobs available.^{xi} For example, a 2019 study described as "the most important work on the minimum wage in 25 years" examined 138 state minimum wage changes between 1979 and 2014. The study found no evidence of any reduction in the total number of jobs for low-wage workers and no evidence of reductions affecting subsets of the workforce such as workers without a college degree, workers of color, and young workers. Similarly, a 2016 meta-analysis of 37 studies on the minimum wage published since 2000 found "no support for the proposition that the minimum wage has had an important effect on U.S. employment."

Moreover, opponents' claims that a higher minimum wage will somehow lower tipped workers' earnings do not hold water. Well-designed research on tipped minimum wages has in most cases found positive impacts on workers' net earnings and practically meaningless impacts on tipping.^{xiii} Senate Bill 160 specifically protects tips by requiring transparency about the use of "service charges," preventing restaurants by artificially depressing tips through misleading charges customers may assume go to workers.

The verdict is in: Guaranteeing One Fair Wage works.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Senate Finance Committee make a favorable report on Senate Bill 160.

Equity Impact Analysis: Senate Bill 160

Bill summary

Senate Bill 160 gradually reduces Maryland’s subminimum wage, increasing the effective minimum wage for tipped workers. Tipped workers would receive full minimum wage protection beginning in January 2027.

The bill also requires restaurants to disclose the use of service charges.

Background

The Fair Wage Act of 2023 increased Maryland’s minimum wage to \$15 effective January 1, 2024.

Maryland’s minimum wage law is modeled after federal wage and hour law. When Congress enacted the federal employment law framework in the 1930s, New Deal proponents made concessions to win the votes of Southern Democrats, generally denying protections to workers in disproportionately Black industries including restaurants and hotels. Congress extended partial minimum wage protection to these workers in 1966, allowed employers to pay tipped workers only half the standard minimum wage. Congress broke this 50% linkage in 1996, freezing the federal tipped subminimum wage at \$2.13 per hour. The Maryland General Assembly did the same in 2014, freezing our tipped wage at \$3.63.

Equity Implications

Structural barriers built into our economy through policy have disproportionately kept Black workers, other workers of color, women, and workers in other marginalized groups out of high-paying jobs. As a result, guaranteeing a consistent minimum wage would deliver particularly important benefits to workers in these groups.

- Gradually eliminating the subminimum wage would boost incomes for about 51,000 Maryland workers, with a total impacts of \$530 million once fully phased in (\$10,350 on average).
- Workers benefiting from the bill include 10,000 parents.
- More than 80% of tipped workers are at least 20 years old and nearly half work full time.
- One-third of tipped workers have family income less than double the federal poverty line, and 42% have family income under \$50,000 per year.
- Nationwide, tipped workers are more likely than other workers to struggle to put food on the table.
- Between housing, food, clothing, and other essentials, there is nowhere in Maryland where even a single adult, working full time and not caring for children, can afford a basic living standard on less than \$15 per hour.^{xiii}

Impact

Senate Bill 160 would likely **improve racial, gender, and economic equity** in Maryland.

ⁱ Wendy Pollack, “The Racist History behind America’s Tipping Culture,” Shriver Center on Poverty Law, 2019, <https://theshriverbrief.org/the-racist-history-behind-americas-tipping-culture-b5edcbo8fcb6>

ⁱⁱ Sylvia Allegretto and David Cooper, “Twenty-Three Years and Still Waiting for Change: Why it’s Time to Give Tipped Workers the Regular Minimum Wage,” Economic Policy Institute, 2014, <https://www.epi.org/publication/waiting-for-change-tipped-minimum-wage/>
All inflation adjustment in this document is based on CPI-U, all items.

ⁱⁱⁱ Based on Economic Policy Institute Minimum Wage Simulation Model, with calculations by MDCEP (except where otherwise noted). See Technical Methodology by Dave Cooper, Zane Mokhiber, and Ben Zipperer, <https://www.epi.org/publication/minimum-wage-simulation-model-technical-methodology/>

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- ^{iv} MDCEP analysis of 2017–2022 Current Population Survey IPUMS microdata (Food Security Supplement, Outgoing Rotation Groups, and Annual Social and Economic Supplement).
- ^v Based on the Economic Policy Institute Family Budget Calculator, adjusted for inflation by MDCEP.
- ^{vi} Michael Lynn, Michael Sturman, Christie Ganley, Elizabeth Adams, Mathew Douglas, and Jessica McNeil, “Consumer Racial Discrimination in Tipping: A Replication and Extension,” *Journal of Applied Social Psychology* 38(4), 2008, <https://onlinelibrary.wiley.com/doi/full/10.1111/j.1559-1816.2008.00338.x>
- ^{vii} Jocelyn Frye, “Not Just the Rich and Famous: The Pervasiveness of Sexual Harassment across Industries Affects All Workers,” Center for American Progress, November 2017, <https://www.americanprogress.org/issues/women/news/2017/11/20/443139/not-just-rich-famous/>
- ^{viii} Allegretto and Cooper, 2014.
- ^{ix} Kerris Cooper and Kitty Stewart, “Does Money Affect Children’s Outcomes? A Systematic Review,” Joseph Rowntree Foundation, October 2013, <https://www.jrf.org.uk/sites/default/files/jrf/migrated/files/money-children-outcomes-full.pdf>
The systematic review methodology involves defining in advance how researchers will identify relevant studies, as well as quality control measures to ensure that only studies with credible methodologies are included. This methodology protects against researchers cherry-picking studies that support their viewpoint.
- ^x Arindrajit Dube, T. William Lester, and Michael Reich, “Minimum Wage Shocks, Employment Flows and Labor Frictions,” IRLE Working Paper #140-13, 2014, <http://irle.berkeley.edu/files/2013/Minimum-Wage-Shocks-Employment-Flows-and-Labor-Market-Frictions.pdf>.
- ^{xi} David Cooper, “Raising the Federal Minimum Wage to \$15 by 2024 Would Lift Pay for Nearly 40 Million Workers,” Economic Policy Institute, 2019, <https://www.epi.org/publication/raising-the-federal-minimum-wage-to-15-by-2024-would-lift-pay-for-nearly-40-million-workers/>
- ^{xii} Forthcoming MDCEP literature review. Credibly designed studies such as Allegretto and Nadler (2015), Even and MacPherson (2014), Paarlberg and Reyes (2018), and Neumark and Yen (2023) find positive (though in some cases small) impacts on workers’ net hourly or weekly earnings including tips. Many studies specifically of tipping behavior suffer from serious design flaws, but the most credible research finds impacts on tip sizes so small as to be practically meaningless. For example, based on Ali et al. (2023), Senate Bill 160 might decrease average tip percentages by 0.7 percentage points (e.g., from 20.0% to 19.3%).
- ^{xiii} Based on the Economic Policy Institute Family Budget Calculator, adjusted for inflation by MDCEP.

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Position: FAV



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SB 160: Labor and Employment - Payment of Minimum Wage - Tipped Employees

Senate Finance Committee | February 1, 2024

Position: SUPPORT

The National Women's Law Center (NWLC) submits this testimony in strong support of SB 160, the "One Fair Wage" bill. SB 160 will finally require employers in Maryland to pay tipped workers the full minimum wage, before tips, by 2027. This wage increase will provide critical relief for tipped workers in Maryland, who are disproportionately women and people of color. This bill is essential to address the pervasive and longstanding pay disparities that women, and especially women of color, face in Maryland—disparities that were only exacerbated by the COVID-19 pandemic.¹

Since 1972, NWLC has fought for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls. NWLC advocates for improvement and enforcement of our nation's employment and civil rights laws, with a particular focus on the needs of LGBTQI+ people, women of color, and women with low incomes and their families. Ensuring that *all* workers in Maryland are entitled to the same fair minimum wage, regardless of tips, is a critical way to boost women's paychecks, combating poverty and persistent racial and gender pay gaps.

Women working full time, year-round in Maryland typically make only 86 percent of what their male counterparts make, leaving a wage gap of 14 cents on the dollar.² This wage gap varies by race and is far larger for Black women, Latinas, and many other women of color.³ One driver of these wage gaps is women's overrepresentation in low-paid jobs.⁴ In Maryland, nearly two in three workers in the state's lowest-paying jobs are women,⁵ as are roughly two-thirds (68%) of tipped workers; more than one-third (35%) of tipped workers in Maryland are women of color.⁶ Especially in states like Maryland where employers can pay just a few dollars an hour before tips, tipped workers experience poverty at far higher rates than the workforce overall⁷—and they also experienced job loss, reduced tips, and great risks to their health and safety during the height of the pandemic.⁸

Women who rely on tips rather than wages for the bulk of their income also often feel compelled to tolerate inappropriate behavior from customers, and women's lack of economic power in these workplaces perpetuates the already pervasive culture of sexual harassment in industries that employ large numbers of tipped workers.⁹ Today, while Maryland law continues to allow employers to pay tipped workers a base wage of just \$3.63 an hour, many question whether they should stay in a profession that leaves them vulnerable to harassment and scrambling to pay their bills¹⁰—and many who have already left question whether they should return.¹¹

Meanwhile, since D.C. voters overwhelmingly approved Initiative 82 on the November 2022 ballot, the District of Columbia has been raising its tipped minimum cash wage; D.C.'s tipped wage is now \$8.00 per hour, and it will continue to rise on July 1 each year until it matches the regular minimum wage in 2027.¹² If Maryland does not offer competitive wages for tipped workers, employers in neighboring counties will continue to see an exodus of workers from Maryland's restaurant industry to more attractive pay in D.C.¹³ But ensuring that tipped workers can count on a full minimum wage, with tips on top, can help attract and retain workers in Maryland's restaurants and other tipped jobs.

Raising wages for Maryland's tipped workers will also benefit children, families, and the state's economy. Especially in light of recent inflation, families across the state are still struggling to afford the basics. SB

160 would give many of these families a much-needed income boost—which research shows can also benefit children’s health and well-being.¹⁴ Decades of research studying the impact of state and local minimum wage increases also show that these measures consistently improve incomes for workers and their families without costing jobs.¹⁵

Likewise, in the jurisdictions that have already adopted One Fair Wage, this policy has not harmed growth in the restaurant industry or tipped jobs. From 2011 to 2019, One Fair Wage states had *stronger* restaurant growth than states that had a lower tipped minimum wage.¹⁶ And while the pandemic hit the leisure and hospitality sector hard, the recovery has been swifter in One Fair Wage states: From January 2021 to May 2023, One Fair Wage states saw 53% growth in the leisure and hospitality industry, compared with just 19% growth in states with lower wages for tipped workers.¹⁷ Indeed, because underpaid workers spend much of their extra earnings in their communities, raising wages for tipped workers can boost local economies and spur small business growth.¹⁸ And higher wages can further benefit employers by reducing turnover and increasing productivity.¹⁹

The One Fair Wage bill will help working families thrive and, because women are the majority of workers who will see their pay go up, wage gaps will likely narrow as well.²⁰ Last year, this legislature accelerated the phase-in of Maryland’s \$15 minimum wage but left the wage for tipped workers frozen at \$3.63—once again leaving many women and people of color behind. **You can fix that today.** By supporting the One Fair Wage bill, you will diminish historic inequities in Maryland and ensure that women can work with equality, safety, and dignity—starting with equal and adequate pay.

We respectfully request a favorable report of SB 160.

* * *

Please do not hesitate to contact Diana Ramirez at dramirez@nwlc.org if you have questions or require additional information. Thank you for your consideration.

¹ See generally, e.g., *Resilient But Not Recovered: After Two Years of the COVID-19 Crisis, Women Are Still Struggling*, NWLC (March 2022), <https://nwlc.org/resource/resilient-but-not-recovered>.

² *The Wage Gap by State for Women Overall*, NWLC (March 2023), https://nwlc.org/wp-content/uploads/2022/09/wage_gap_women_overall.pdf.

³ Among full time, year-round workers in Maryland, Black women are paid just 67 cents, and Latinas just 49 cents, for every dollar paid to their white, non-Hispanic male counterparts. *The Wage Gap by State for Black Women*, NWLC (March 2023), https://nwlc.org/wp-content/uploads/2022/09/wage_gap_black_women.pdf, and *The Wage Gap by State for Latinas*, NWLC (March 2023), https://nwlc.org/wp-content/uploads/2022/09/wage_gap_latinas.pdf. See also Sarah Javaid, *A Window Into the Wage Gap: What’s Behind It and How to Close It*, NWLC (Jan. 2024), <https://nwlc.org/wp-content/uploads/2023/01/2023-Wage-Gap-Factsheet.pdf>.

⁴ See generally, e.g., Jasmine Tucker & Julie Vogtman, *Hard Work Is Not Enough: Women in Low-Paid Jobs*, NWLC (July 2023), <https://nwlc.org/resource/when-hard-work-is-not-enough-women-in-low-paid-jobs/>.

⁵ See *id.*

⁶ NWLC calculations based on 2017-2021 American Community Survey (ACS) five-year estimates using Steven Ruggles et al., IPUMS USA: Version 14.0 [dataset] (Minneapolis, MN: IPUMS, 2023), <https://doi.org/10.18128/D010.V14.0>. Women of color includes all women who did not self-identify as white, non-Hispanic women. Figures include all workers employed in a set of predominantly tipped occupations identified by the Economic Policy Institute (EPI). See Dave Cooper, Zane Mokhiber & Ben Zipperer, EPI, *Minimum Wage Simulation Model Technical Methodology* (Feb. 2019), <https://www.epi.org/publication/minimum-wage-simulation-model-technical-methodology/>.

⁷ See generally *One Fair Wage: Women Fare Better in States with Equal Treatment for Tipped Workers*, NWLC (Feb. 2021), <https://nwlc.org/resource/one-fair-wage/>.

⁸ See, e.g., *Unlivable: Increased Sexual Harassment and Wage Theft Continue to Drive Women, Women of Color, and Single Mothers Out of the Service Sector*, ONE FAIR WAGE (April 2022), <https://onefairwage.site/unlivable>.

⁹ See, e.g., Catrin Einhorn & Rachel Abrams, *The Tipping Equation*, N.Y. TIMES (March 12, 2018), <https://www.nytimes.com/interactive/2018/03/11/business/tippingsexual-harassment.html>; Amanda Rossie, Jasmine Tucker & Kayla Patrick, *Out of the Shadows: An Analysis of Sexual Harassment Charges Filed by Working Women*, NWLC 16-17 (Aug. 2018), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2018/08/SexualHarassmentReport.pdf>; Stefanie K. Johnson & Juan M. Madera, *Sexual Harassment Is Pervasive in the Restaurant Industry. Here’s What Needs to*

Change, HARV. BUS. REV. (Jan. 18, 2018), <https://hbr.org/2018/01/sexual-harassment-is-pervasive-in-the-restaurant-industry-heres-what-needs-to-change>.

¹⁰ See *One Fair Wage: Ending a Legacy of Slavery and Addressing Maryland's Restaurant Staffing Crisis*, ONE FAIR WAGE (Feb. 2023), https://onefairwage.site/wp-content/uploads/2023/01/OFW_EndingLegacySlavery_MD-1.pdf.

¹¹ See, e.g., Abha Bhatara & Maggie Penman, *Restaurants Can't Find Workers Because They've Found Better Jobs*, WASH. POST (Feb. 3, 2023), <https://www.washingtonpost.com/business/2023/02/03/worker-shortage-restaurants-hotels-economy/>.

¹² See Washington, D.C., *Initiative 82, Increase Minimum Wage for Tipped Employees Measure (2022)*, BALLOTEDIA, [https://ballotpedia.org/Washington,_D.C.,_Initiative_82,_Increase_Minimum_Wage_for_Tipped_Employees_Measure_\(2022\)](https://ballotpedia.org/Washington,_D.C.,_Initiative_82,_Increase_Minimum_Wage_for_Tipped_Employees_Measure_(2022)).

¹³ See *One Fair Wage: Ending a Legacy of Slavery and Addressing Maryland's Restaurant Staffing Crisis*, *supra* note 10.

¹⁴ See generally, e.g., *Set Up for Success: Supporting Parents in Low-Wage Jobs and Their Children*, NWLC (June 2016), <https://nwlc.org/resource/set-up-for-success-supporting-parents-in-low-wage-jobs-and-their-children/>; George Wehby et al., *Effects of the Minimum Wage on Child Health*, 8 AM. J. HEALTH ECON. 412 (2022), <https://doi.org/10.1086/719364>.

¹⁵ See, e.g., Arindrajit Dube, *Impacts of Minimum Wages: Review of the International Evidence* (Nov. 2019), <https://www.gov.uk/government/publications/impacts-of-minimum-wages-review-of-the-international-evidence>; Doruk Cengiz et al., *The Effect of Minimum Wages on Low-Wage Jobs*, 134 Q. J. ECON. 1405-54 (Aug. 2019), <https://academic.oup.com/qje/article/134/3/1405/5484905> (examining 138 state minimum wage changes in the U.S. between 1979 and 2016 and finding that both the typical minimum wage increases and also the highest state-level minimum wage increase significantly raised wages without reducing the employment of low-wage workers).

¹⁶ Ben Zipperer, *The Impact of the Raise the Wage Act of 2023*, ECON. POLICY INST. (July 2023), <https://files.epi.org/uploads/270622.pdf>.

¹⁷ Jessica Vela, *Higher State-Level Minimum Wages Aid in Faster Jobs Recovery*, CTR. FOR AM. PROGRESS (July 2023), <https://www.americanprogress.org/article/higher-state-level-minimum-wages-aid-in-faster-jobs-recovery/>.

¹⁸ See, e.g., Zoe Willingham, *Small Businesses Get a Boost from a \$15 Minimum Wage*, CTR. FOR AM. PROGRESS (Feb. 25, 2021), <https://www.americanprogress.org/issues/economy/reports/2021/02/25/496355/small-businesses-get-boost-15-minimum-wage/>; William M. Rodgers III & Amanda Novello, *Making the Economic Case for a \$15 Minimum Wage*, CENT. FOUND. (Jan. 2019), <https://tcf.org/content/commentary/making-economic-case-15-minimum-wage/>.

¹⁹ See, e.g., Holly Sklar, *Business and Minimum Wage Research Summary*, BUS. FOR A FAIR MIN. WAGE (April 2023), <https://www.businessforafairminimumwage.org/sites/default/files/BFMW%20Business%20and%20Minimum%20Wage%20Research%20Summary%20April%202023.pdf>; Kate Bahn & Carmen Sanchez Cumming, *Improving U.S. Labor Standards and the Quality of Jobs to Reduce the Costs of Employee Turnover to U.S. Companies*, WASH. CTR. FOR EQUITABLE GROWTH (Dec. 2020), <https://equitablegrowth.org/improving-u-s-labor-standards-and-the-quality-of-jobs-to-reduce-the-costs-of-employee-turnover-to-u-s-companies/>.

²⁰ A higher minimum wage generally would narrow the wage distribution, effectively narrowing the wage gap. Nicole M. Fortin & Thomas Lemieux, *Institutional Changes and Rising Wage Inequality: Is There a Linkage?*, J. Econ. Perspectives Vol. 11, No. 2, 75-96, at 78 (Spring 1997), <http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.11.2.75>; Francine D. Blau & Lawrence M. Kahn, *Swimming Upstream: Trends in the Gender Wage Differential in the 1980s*, J. LABOR ECON., Vol. 15, No. 1, 1-42, at 28 (Jan. 1997), https://www.jstor.org/stable/2535313?seq=1#page_scan_tab_contents; *Minimum Wages, Ch. 7.3: Effects on Gender Pay-Gaps*, INT'L LABOR ORG., https://www.ilo.org/global/%20topics/wages/minimum-wages/monitoring/WCMS_473657/lang--en/index.htm (accessed Feb. 23, 2023). See also Jesse Wursten & Michael Reich, *Racial Inequality and Minimum Wages in Frictional Labor Markets*, IRLE Working Paper no. 101-21 (Feb. 2021), <http://irle.berkeley.edu/files/2021/02/Racial-Inequality-and-Minimum-Wages> (finding that minimum wage increases between 1990 and 2019 reduced Black-white wage gaps by 12% overall, and by 60% for workers with a high school diploma or less; while wage increases boosted earnings for men and women of all races, Black workers, and particularly Black women, experienced the greatest gains).

SB 160 - Labor and Employment - Payment of Minimum

Uploaded by: Donna Edwards

Position: FAV



MARYLAND STATE & D.C. AFL-CIO

AFFILIATED WITH NATIONAL AFL-CIO

7 School Street • Annapolis, Maryland 21401-2096

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President

Donna S. Edwards

Secretary-Treasurer

Gerald W. Jackson

**SB 160 - Labor and Employment - Payment of Minimum Wage - Tipped Employees
Senate Finance Committee
January 31, 2024**

SUPPORT

**Donna S. Edwards
President
Maryland State and DC AFL-CIO**

Madame Chair and members of the Committee, thank you for the opportunity to provide testimony in support of SB 160 - Labor and Employment - Payment of Minimum Wage - Tipped Employees. My name is Donna S. Edwards, and I am the President of the Maryland State and DC AFL-CIO. On behalf of the 300,000 union members in the state of Maryland, I offer the following comments.

SB 160 gradually eliminates the tip credit that allows certain employers to pay their workers less than the minimum wage. SB 160 provides formerly tipped workers more stable incomes and increased earnings. Businesses would also save time currently needed to comply with the existing Tip Credit Wage Statement rules.

The tip credit system that exists today dates back to 1966, when it was set to half of the minimum wage. Since then it has remained frozen at \$2.13 per hour at the federal level. Maryland's subminimum wage for tipped employees is only \$3.63 per hour. Following the Civil War, many formerly enslaved workers were hired in the hospitality and restaurant industries. Instead of offering wages for their work, employers forced these workers to rely on tips at the direct discretion of patrons for the money they need to survive. This system was deliberately set up to force workers into subservient positions. This history is echoed today with even the Cato Institute referring to restaurant worker advocates as "tipping abolitionists."¹ The U.S. Department of Labor's Wage and Hour Division surveyed 9,000 restaurants, finding violations at 83.8% of them, including 1,170 violations of the tip credit rules.²

Eliminating the tip credit system will not dramatically change the restaurant industry. The District of Columbia, Minneapolis, Seattle, Los Angeles, San Francisco, and other states and localities all require payment of the full minimum wage while having world-class restaurant industries. Workers there receive both tips and the full minimum wage, leading to higher take home pay.³ SB 160 is an opportunity to correct historical injustices and promote social equity. We urge a favorable vote from this committee.

¹ Richard B. McKenzie. "Should Restaurant Tipping Be Abolished?" Cato Institute. September 2016.

² Sylvia Allegretto and David Cooper. "Twenty Three Years and Still Waiting for Change: Why It's Time to Give Tipped Workers the Regular Minimum Wage." Economic Policy Institute and Center for Wage and Employment Dynamics at Berkeley.

³ One Fair Wage and the Food Labor Research Center, "Making History: A New Future for DC's Restaurant Industry." October 2022.

SB 160 Wages Testimony of Edward Fischman.pdf

Uploaded by: Edward Fischman

Position: FAV

Testimony of Edward Fischman
(Chair – Montgomery County chapter of Our Revolution Maryland)

Testimony in Support of SB160

Chair Beidle, Vice-Chair Klausmeier, and the Members of the Finance Committee:

I offer this testimony in support of the bill, SB 160, and offer profound gratitude thank Senator McCray for championing this cause and bringing this question before the Senate. I am testifying on behalf of Our Revolution Maryland, which has been advocating for crucial economic and social justice legislation and actions at all levels of government. In hopes of advancing some important reforms, members of our organization have stood for election or appointment to County offices, as well as the General Assembly, and we have supported other deeply progressive candidates. Though Maryland is a solidly Democratic state, reflected by the super-majorities in the General Assembly, the progress we have seen in recent years has been halting, slow and incomplete.

The minimum wage is a quintessential example of that incomplete progress. I congratulate the members for passing important minimum wage laws over the last dozen years, raising the state wage several times, and last year, speeding the movement to \$15 per hour. There have been efforts at greater equity, notably for disabled workers. However, some classes of workers have been left behind. We are here to ask you to remedy this inequitable disregard of tipped workers.

The current minimum wage is understood to be little more than a pittance, and tipped workers thus rely on tips from customers, to reach something approaching a living wage. Wait staff work very hard, often under constant pressure when the restaurant is crowded, and customers recognize that with, hopefully, generous tips.

However, tips are inconsistent. Some customers are less generous, and some shifts aren't as busy as others, and some restaurants aren't as busy as others. The business owners exert great control over their workers, in handing out shifts, and sometimes even sending servers home if the foot traffic isn't there. That is why it so important that the workers start with the same base minimum wage we demand for workers in every other category, save agricultural workers.

There is no good reason to continue a relationship which has its roots in sexism and in the deeply embedded racism post-slavery era. There are also multiple other ways in which benefits are impacted by the absence of regular hours and regular wages.

Tipped workers need a wage they can count on. Tips should be a reward from customers for good service, and not a substitute for fair wages that should be paid by the employer.

While the Restaurant Association will mobilize workers from a few restaurants to oppose the legislation, claiming the sky will fall if this change is made, all the evidence points to workers

benefiting even more from tipping in those states which do not have a tipped minimum. In our neighbor to the south, in DC, they are phasing out the minimum wage. While some restaurants are trying to hide the changes with service fees in lieu of menu price changes, those restaurants which are honoring the spirit of the law are not being negatively impacted, the DC restaurant scene is as strong as it was before, if not stronger.

Do not be swayed by scaremongering organized by large out-of-state businesses and lobbyists. These changes are supported by most servers – especially those who cannot take a day to testify in Annapolis. This is an important reform which is gaining traction in the most progressive states. Maryland should not drag its feet on this issue any longer.

On my own behalf, and on behalf of thousands of Our Revolution members in Maryland, I urge the committee to issue a favorable report on SB160.

PJC Testimony -SB160-SUPPORT.pdf

Uploaded by: Emily Woo Kee

Position: FAV



Lee Woo Kee, Paralegal
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-5815-9409, ext. 246
wookeee@publicjustice.org

SB 160: Labor and Employment – Payment of Minimum Wage – Tipped Employees

Hearing before the Senate Finance Committee, February 1, 2024

Position: SUPPORT

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization that seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project aims to ensure that our state’s low-wage workers receive fair and full payment for their labor, as well as other basic protections on the job. **The PJC supports SB 160 and urges a favorable report.**

SB 160 seeks to remove the “tip credit” from the salary of a tipped worker and hold employers responsible for paying their employees’ minimum wage. There are over 105,000 tipped workers in the state of Maryland, around 65 percent of that workforce is women and 52 percent are people of color¹. These workers face twice the poverty compared to other workers in Maryland and the highest rate of sexual harassment of any other industry. Furthermore, eliminating the subminimum wage would bolster restaurant job growth rates, small business growth rates, and tipping averages. This is a matter of economic, gender, and racial justice.

Tipped workers should be receiving a full minimum wage as a way of protecting them from wage and hour violations. The Public Justice Center’s Workplace Justice Project represents low-wage workers who are the victims of wage theft. Through our litigation and outreach, we know that wage laws are regularly violated. In fact, the restaurant industry is the largest employer of workers who earn less than minimum wage and almost 84 percent of restaurants partake in a wage and hour violation². Even if the law that employers must ensure tips are supplementing their employees’ subminimum wage is being enforced, tipping is still a precarious and unreliable form of income that also subjecting workers to harassment of many forms.

The COVID-19 pandemic is a reminder that the sub-minimum wage system forces workers to rely on unpredictable earnings and abusive behavior from customers. Over 100,000 restaurant workers in Maryland lost their jobs at the beginning of the pandemic, leading 50 percent of those workers unable to access unemployment benefits because their subminimum was too low to qualify to receive assistance³. Workers’ dependency on tips forces them to rely on the uncertainty of how much

¹ “One Fair Wage: Maryland,” available at <https://www.onefairwage.org/maryland>.

² “OFW MYTHS VS. FACTS FACT SHEET,” available at <https://onefiarwage.site/research>.

³ “One Fair Wage: The Key to Saving the Maryland Restaurant Industry Post-COVID 19,” October 26, 2022, available at <https://www.onefairwage.org/factsheets/category/Fact+Sheet>.

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

they will earn in tips on any given day, and during the pandemic that uncertainty threatened thousands of workers.

Nationwide, over 4 million workers have returned to the restaurant industry as businesses reopened during the summer of 2020 and the start of 2021; however, nearly 69 percent of workers have noted a decrease in their tips because of low sales and an increase in harassment from customers when the worker tries to enforce safety protocols such as masks and social distancing⁴. Women workers specifically have experienced higher levels of unwanted sexual comments, relying on tips to earn a living wage forces workers into a vulnerable position that makes it difficult to police inappropriate behavior from a customer if it means sacrificing a higher tip.

The growth of the restaurant industry does not depend on workers receiving tips, and it is only just for employers to pay for the cost of the labor they employ. A common myth perpetuated against eliminating the tipped minimum wage is that small businesses will be forced to shut down or lay off employees to raise the minimum wage. Yet, restaurant establishment growth is higher in states (CA, OR, WA, NV, MT, MN, AK) without a subminimum wage. Over 4,000 restaurants nationally, and dozens in Maryland, aren't subsidizing their employees' wages with tips and are maintaining lower turnover rates and seeing higher productivity amongst their workers⁵.

For the reasons mentioned above, the Public Justice Center **SUPPORTS SB 160** and requests a **FAVORABLE** report.

⁴ "One Fair Wage: The Key to Saving the Restaurant Industry Post-COVID 19," available at <https://onefairwage.site/research>.

⁵ "OFW MYTHS VS. FACTS FACT SHEET," available at <https://onefiarwage.site/research>.

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01FEB24_SB0160Testimony_01a.pdf

Uploaded by: Executive Community Citizen's Board (ECCB) Administrative Chair

Position: FAV

Brandywine/TB, Southern Region Neighborhood Coalition

Many Communities • One Voice • Keeping Community Informed

TESTIMONY IN SUPPORT OF SENATE BILL SB0160

Labor and Employment – Payment of Minimum Wage – Tipped Employees
Before Senate Finance Committee, February 1, 2024

TO: Senator Pamela Beidle, Vice Chair, Senator Katherine Klausmeier, and members of the Senate Finance Committee
FROM: Brandywine TB Southern Region Neighborhood Coalition (BTB Coalition)
POSITION: Favorable

Thank you for the opportunity to offer testimony in support of SB 0160. The BTB Coalition is the sponsored membership of 2Bridge CDX a “community development locality nonprofit organization”, having HUBS for every county in the State of Maryland, with members and supporters who live throughout the state, and nationally.

In addition, there are dozens of affiliated locality community, faith, and labor organizations across the state that stand behind our work. Our mission is to improve the lives of working families in Maryland. Please note our strong support for SB 0160. We support the passage of SB 0160 to phase out the tipped minimum wage in Maryland. This bill is essential for ensuring economic equity for all workers, particularly low-income and women workers who traditionally rely heavily on tips to make a living wage. Gratuities should be a bonus for a good service, not a customer subsidy to employers for their wage bills.

Currently, these workers receive a subminimum wage of only \$3.63 per hour leaves it difficult for these workers to achieve the financial security that all full-time workers deserve. Additionally, this bias can lead to pay disparities between men and women in industries historically dominated by women such as hospitality and food service where tips often determine wages. And because tips make up such a large percentage of their income, women who rely on tips are often forced to put up with mistreatment from customers, including sexual harassment, just to ensure that they get a decent paycheck at the end of their work day.

As you know, the price of everything has risen in the last several years. we know about the expected raise given to hourly workers but the tip workers have been left off of the bill. Tip workers should be included so that workers can be given an opportunity at an economic increase like all other workers. A factor that weighs heavily on the need of increasing the wage is the major impact that technology has had on the workforce.

Specifically talking about service jobs of the forefront staff at places of employment like bars, hotels restaurants technology has allowed employers to change overall budgets because some of the jobs like the self-check at the grocery stores have allowed the private sector to replace some jobs with devices and innovations that have automated workforces. while this can be viewed any way, you like it what is does more than anything is it allows employers to save money and this should give them the opportunity to embrace an increase in wages to \$15.

This legislation is thus critical for creating a fairer economy where no worker ever has to worry about being unable to afford basic necessities again and will make an incredible difference in the lives of thousands across Maryland. For these reasons, we respectfully urge a favorable report on SB 0160. To conclude, we support the testimony of the National Women’s Law Center (NWLC), in 2023 testimony in strong support of SB 0160 (the “One Fair Wage” bill).

The ECCB– Neighborhood Leadership Council (NLC) will host a mandatory orientation to ensure newly inducted members understand their roles, expectations on how to serve the organization and community effectively.

If you have questions or concerns, you can refer this matter to ECCB– Neighborhood Leadership Council (NLC) by email at btb.eccb@gmail.com or by phone at 240.681.9070. Thank you for your considerable time and attention.

ECCB– NLC Administrative Chair


Respectfully submitted,

In solidarity, Brandywine/TB Southern Region Neighborhood Coalition; and the Executive Community Citizen’s Board (ECCB) neighborhood Leadership Council

SB160_AmendedTestimony

Uploaded by: Executive Community Citizen's Board (ECCB) Administrative Chair

Position: FAV

Brandywine/TB, Southern Region Neighborhood Coalition

Many Communities • One Voice • Keeping Community Informed

TESTIMONY IN SUPPORT OF SENATE BILL SB0160

Labor and Employment – Payment of Minimum Wage – Tipped Employees
Before Senate Finance Committee, February 1, 2024

TO: Senator Pamela Beidle, Vice Chair, Senator Katherine Klausmeier, and members of the Senate Finance Committee
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ECCB– NLC Administrative Chair


Respectfully submitted,

In solidarity, Brandywine/TB Southern Region Neighborhood Coalition; and the Executive Community Citizen’s Board (ECCB) neighborhood Leadership Council

TESTIMONY IN SUPPORT OF SENATE BILL SB0160
Labor and Employment – Payment of Minimum Wage – Tipped Employees
Before Senate Finance Committee, February 1, 2024

Amendment Oral Testimony

Good Afternoon,

Chair and Vice Chair, and members of the Finance Committee

I am Kamita Gray, Chief Managerial Officer, of 2Bridge Community Development eXchange and the President of the BTB Coalition place-based organization... at one time in my life I was a service worker minimum wage was \$2.90, thank God I was still living at home with my parents.

Women hourly workers are also more likely to earn the minimum wage or less — 2.6% of female hourly workers make the minimum wage or below, compared to 1.3% of male hourly workers.

About 2.4% of Black hourly workers earn the minimum wage or less, compared to about 2% among white, Asian, and Hispanic hourly workers.

Twelve percent of hourly food service workers make the minimum wage or less, the highest rate of any occupation type.

Food service workers are also more likely to be paid an hourly rate compared to workers in other occupations, with more than half of food service employees (servers, cooks, cashiers, etc.) receiving hourly wages.

After food service workers, personal care occupations, including manicurists, caregivers, barbers, hairstylists, and cosmetologists, have the second highest rate of hourly workers at or below minimum wage, at 3.2%.

The minimum wage and the living wage are not the same thing. In cases where the minimum wage is less than the estimated living wage, the suggestion is that earnings from a full-time minimum-wage job are not enough to support someone without additional income or subsidized aid.

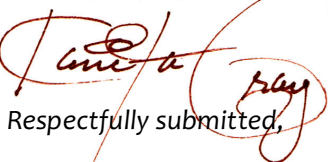
What happens to employment after an increase in minimum wage?

In 22 states, including Washington, DC the number of jobs increased in the occupations in the year after a minimum wage increase. These areas average 8,666 more jobs in the occupations, an average increase of 2.7% in employment.

On a final note, we acknowledge other effects of raising the minimum wage that's not reflected in data by. Experts have analyzed the effect that minimum wage increases have on hours worked by employees, employee productivity, job creation, production, and forms of non-cash compensation such as health insurance. Other possible effects are changes to company pricing strategies, working conditions, higher-wage worker compensation, and benefit eligibility for low-income households.

There and for, for all these reasons, inclusive of all challenges, rising minimum wage is still a good Idea, wherefore we ask the Committee issue a favorable report on SB 160.

Thank you for your time and attention


Respectfully submitted,

SB160_LouiseWeissman2_FAV .pdf

Uploaded by: Louise Weissman

Position: FAV

SB160_LouiseWeissman_FAV
Date of Hearing: February 1, 2024
Louise M. Weissman
District 22, Greenbelt, MD 20770

TESTIMONY ON SB#160/HB#467 - POSITION: (FAVORABLE)
Labor and Employment - Payment of Minimum Wage - Tipped Employees

TO: Chair Beidle, Vice Chair Klausmeier, and members of the Finance Committee

FROM: Louise M. Weissman

My name is Louise Weissman. I am a resident of District 22 and live in Greenbelt. I am submitting this testimony in support of SB#160/HB#467 - Labor and Employment - Payment of Minimum Wage - Tipped Employees.

I am a retiree. I have lived in Prince George's County for over 30 years, but I grew up in Boston, MA. My family was in the restaurant business. The restaurant was in a working class neighborhood. Customers were local shop owners and workers as well as families who lived close by. The employees, including waitresses, have always made a modest living. But as of 1966, servers have been penalized through the Sub-minimum Wage Tipped Worker regulations in the Fair Labor Standards Act (FLSA).

My father and my uncle (mother's brother) were co-owners. My mother was the bookkeeper. My aunt and her mother came in periodically when a cashier was sick. My cousin, my sister and I worked as cashiers starting at 14, eventually working as waitresses. I worked Saturdays and holidays during the school year and 5 days a week during the summer. My wages and tips were deposited into a college savings account. Below Minimum Wage for Tipped Workers was instituted in 1966 when I started working, but the cost of living and college costs were also significantly lower. With help from my parents, the savings helped foot my college expenses, along with work study and loans. But attending college was financially easier to achieve then. When I went to UMass/Amherst, tuition for a semester was \$200. When I graduated, my loans were well below \$10,000, not 10's or 100's of thousand dollars as students face now. **TIMES HAVE CHANGED!**

The FLSA was established in 1966 with a bare minimum floor for tipped wages only. I don't recall any initiatives to fight for parity after that. But the economy and cost of living now are not what they were then. The federal tipped minimum wage has remained at \$2.13/hour since 1991, though in Maryland the tipped minimum wage is \$3.63. Failing to raise the tipped minimum wage is harmful for all restaurant servers, but it disproportionately hurts people of color and women.

I want to make one other point. After graduation, I worked in non-profit organizations, many national, managing operations and administration, including event management. The events were often large-scale held in hotels with conference facilities. The events were sometimes more than one day, and on the last day, you could find me preparing and handing out tip

envelopes to employees, including set-up crews, banquet servers and captains, A/V managers, as well as conference service and reservation managers. These tips were gratuities only for a job well done, not income to be credited against the employees' wages.

I come from a family that believed all work should be treated with dignity and respect. I am convinced if he were alive today my father would agree that it's time for the bare-minimum wage for tipped workers to be eliminated in Maryland as well as across the country. Industry employees, predominantly people of color and women, all struggle to make ends meet whether full- or part-time. There is no parity for servers in restaurants with other tipped employees in the hospitality industry who are not subject to the same penalty. There is no proof that restaurants will close because people will stop eating out if this bill passes. There's no proof that customers will stop tipping servers. Rather, let's ensure a living wage for servers and tips that are a true acknowledgement of appreciation for excellent service. **I respectfully urge this committee to return a favorable report on HB#160.**

Testimony in support of SB0160.pdf

Uploaded by: Richard KAP Kaplowitz

Position: FAV

2/1/2024

Richard Keith Kaplowitz
Frederick, MD 21703

TESTIMONY ON SB#0160 - FAVORABLE
Labor and Employment - Payment of Minimum Wage - Tipped Employees

TO: Chair Beidle, Vice Chair Klausmeier, and members of Finance Committee

FROM: Richard Keith Kaplowitz

My name is Richard Keith Kaplowitz. I am a resident of District 3. I am submitting this testimony in support of SB#0160, Labor and Employment - Payment of Minimum Wage - Tipped Employees

Before retirement I worked in food service. I made \$3.63/hr plus tips. From that \$3.63 and the reported tips I had to pay taxes and the high cost of the limited insurance benefits. In weeks in which, for many reasons, I did not work at least 24 hours in the week I found my paycheck did not cover the full cost of the benefits. In one year I had to write a check to the insurance company to make up the shortfall. Without full wage payment this situation is being repeated around the state.

While my employer is supposed to make up the difference between the tip credit and my reported tips this is based on a bi-weekly pay cycle. So on a day in which the weather prevents people from coming into the restaurant the daily earnings are minimal. I lived closest of all but two other people to my restaurant. In a snowstorm in which the government urged we stay off the roads I had to come in to at least try and earn some income. I worked five hours and made only fourteen dollars. I had a bill due that week in which the paycheck was the following week. The bad weather over four days meant I did not have the income needed to pay bills on time leading to late payment fees plus falling further behind on my bills.

Lastly, with tip income varying based on working conditions – date worked, hours on shift, assigned tables, size of check at that table, turnover time (a guest party leaving and another being seated), weather, etc. a server cannot budget or have the ability to handle financial emergencies.

Tipping is a sad inheritance of a racial disparity in which restaurant owners made their predominately African American wait staff be motivated to work harder to earn what the owners would not pay them. Tip amounts even today are less for minorities and men in many establishments. This bill will remove the threat of poverty from the workers and permit them to be fairly compensated for their labor.

I respectfully urge this committee to return a favorable report on SB0160.

Living Wage Bill Maryland 2024.pdf

Uploaded by: Sally Greenberg

Position: FAV



Testimony of Sally Greenberg
CEO
National Consumers League
sallyg@nclnet.org

February 1, 2024

Dear Chair Beidle and members of the Finance Committee,

I would like to thank you for letting me speak today. My name is Sally Greenberg and I serve as CEO of the National Consumers League, the nation's oldest consumer and worker advocacy organization, founded in 1899.

I am here to urge the inclusion of ending the subminimum wage for tipped workers under SB 160. While the state minimum wage increased to \$15.00 on January 1, 2024, the subminimum wage for tipped workers has stayed at an abysmal \$3.63 since 2014.

The subminimum wage is an indefensible direct legacy of slavery. The restaurant industry sought to hire newly freed Black people but without wanting to pay them. This legacy continues in Maryland with a tipped workforce that is 65 percent women and 52 percent people of color.

We know the subminimum wage continues to perpetuate racism and sexism. When One Fair Wage researched Maryland tipped worker pay, they found that the wage gap between Black women and white men in 'front-of-house', tipped positions was \$6.19 per hour, which is a difference of almost \$13,000 a year for a full-time worker.

The restaurant industry is still not fully recovered from the pandemic. We know that in Maryland, almost 20,000 workers left the restaurant industry and haven't returned. Too often restaurants that oppose better wages will claim that this is a result of a "worker shortage." However, as organization One Fair Wage published in a recent report, the restaurant industry isn't facing a worker shortage, it's a wage shortage.

Here in Maryland, we believe the industry needs to stop basing its business strategy on a wage 150-year-old system that is the direct legacy of slavery and join the modern working world. Already 7 states, Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington, pay the full minimum wage, with our neighbors in the District of Columbia joining the club with Initiative 82 several years ago. Our industry needs to modernize and pay at least the full minimum wage with tips on top.

States that pay tipped workers the full minimum wage with tips on top report higher restaurant sales, employment growth rates, and tipping averages than Maryland and the other states that still cling to the antiquated subminimum wage system. It is time to raise the wage and ensure Maryland's restaurant industry doesn't get left behind.

Tipped workers deserve to be paid at the very least, the full minimum wage with tips on top. It's time for SB 160 to move forward and become law.

Thank you again for taking the time to hear from me today.

Sincerely,

A handwritten signature in black ink, appearing to read "Sally Greenberg". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Sally Greenberg
Chief Executive Officer
National Consumers League

Testimony Saru - Maryland 2.1.24.pdf

Uploaded by: Saru Jayaraman

Position: FAV



TESTIMONY TO THE MARYLAND STATE LEGISLATURE

In Support of SB 160, sponsored by Senator Ellis and Senator McCray

**By Saru Jayaraman, President of One Fair Wage
& Director of the University of California Berkeley Food Labor Research Center**

February 1, 2024

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 13.6 million restaurant workers nationwide and the 300,000 restaurant and service workers and over 2500 'high road' restaurant employers who are members of One Fair Wage, I thank you for allowing me to testify in support of SB 160, a bill for One Fair Wage in Maryland.

With the pandemic, the issue of the subminimum wage for tipped workers has changed dramatically in a historic way, with conditions for workers becoming unlivable. 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 160 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, to get to the state minimum wage of \$15 per hour.²

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>.

Even as the minimum wage of Maryland increased to \$15 per hour on 1st January 2024, the tipped wage stayed frozen, thus increasing the gap between tipped and non tipped workers. In other words, the restaurant industry is getting away with paying 75 percent less in wage costs than every other industry.

In Maryland, there are 105,000 tipped workers who are 65 percent women and 52 percent people of color. Many marginalized communities are overrepresented in subminimum wage positions including immigrants and members of the LGBTQ community.³⁴ This majority-female workforce continues to suffer the highest rates of sexual harassment and economic instability of any industry as a result.⁵ Ending this low-wage carve out positively impacts an overall restaurant industry of over 185,000 workers in Maryland.⁶

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 workforce.⁷ 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.⁸

Women, in particular, faced the highest rates of sexual harassment when compared to all other industries.⁹ 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).¹⁰

³ OFW (June 2022) “No Pride In Subminimum Wages”
https://onefairwage.site/wp-content/uploads/2022/06/OFW_LGBTQ_RestaurantWorkers.pdf.

⁴ OFW (January 2023) “New York Fact Sheet”
https://onefairwage.site/wp-content/uploads/2022/10/OFW_FactSheet_NYS_2.pdf.

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 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,

⁷ 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/>.

⁸ 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.

⁹ 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>.

¹⁰ 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.

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.¹¹ This is a result of both occupational segregation and implicit bias in customer tipping. As long as these workers must rely on tips to feed their families, they are subject to the biases and harassment of customers. Allowing workers wages to be dependent on customers has led to a consistent wage gap between Black women and white male workers, for the same job. White servers and bartenders across all restaurant types make more in tips than most other racial groups, as per an Eater analysis of U.S. Census and Bureau of Labor Statistics data.¹²

Unlike Maryland, seven states have always required a full minimum wage with tips on top - California, Oregon, Washington, Nevada, Minnesota, Montana and Alaska.¹³ 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.¹⁴

In fact, California has had a larger small business growth rate in the restaurant industry than Maryland. California has experienced a 11 percent increase in small business restaurants, compared to Maryland experiencing a growth rate of 6 percent since January 2020.¹⁵ Further, in California, a majority of restaurants are people of color-owned businesses (58 percent), compared to 54 percent of restaurants in Maryland.¹⁶

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.¹⁷

Impact of the Pandemic

With the pandemic, the subminimum wage for tipped workers became unlivable: 6 million workers lost their jobs and ⅔ reported that they could not obtain unemployment insurance because they were told their wages were too low. Workers reported tips went down,

¹¹ One Fair Wage. (September 2022). Intentional Inequality - Black Women's Equal Pay Day.

<https://onefairwage.site/intentional-inequality>

¹² <https://www.eater.com/a/case-against-tipping>

¹³ 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.

¹⁴ 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.

¹⁵ Chetty, Friedman, Hendren, Stepner, and the OI Team. (2022). Opportunity Insights Economic Tracker. <https://www.tracktherecovery.org/>.

¹⁶ National Restaurant Association. (March 2022). Restaurant Owner Demographics Data Brief. <https://restaurant.org/getmedia/ad96e3a8-4fb1-492d-a5ae-0b3dd53a61ef/nra-data-brief-restaurant-owner-demograph-ics-march-2022.pdf>.

¹⁷ Ibid.

harassment went up, and when they were asked to enforce COVID protocols on the same people from whom they had to get tips to survive, they left.^{18,19}

During the pandemic, service and tipped workers across the country faced significantly higher rates of job losses and economic insecurity, with losses highly concentrated among women of color.²⁰ 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.²¹ 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.²² 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.²³

Workers Have Had Enough - Leaving the Industry

These conditions and the persistence of a subminimum wage for tipped workers have led many tipped and service industry workers in general to leave the industry altogether²⁴. 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 100,000 restaurant workers in Maryland left their jobs by the end of 2022, representing an all time high since BLS began data collection in 2000.^{25,26}

Our survey found that, even post-pandemic, over half (53 percent) of restaurant workers were considering leaving the industry and, unsurprisingly, over three-quarters (76 percent)

¹⁸ 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/>.

¹⁹ 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.

²⁰ 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>.

²¹ 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.

²² 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.

²³ Ibid.

²⁴ 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>.

²⁵ 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/>.

²⁶ 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 Massachusetts. <https://fred.stlouisfed.org/series/SMU25000007072200001SA>.

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^{27, 28}.

In response to the massive staffing crisis, thousands of restaurants nationwide, and dozens in Maryland, have been raising wages in order to recruit enough staff to fully reopen.²⁹ Since September 2021, we have found more than 6,000 restaurants posting on Indeed.com that workers can earn far above the subminimum wage for tipped workers and the minimum wage at their establishments; many on that list have even clarified that they are offering workers a full minimum wage with tips on top - signaling a real shift in an industry in which everyone was paying the subminimum wage for tipped workers pre-pandemic.³⁰

In Maryland, we have identified several dozen restaurants clearly offering at least the full minimum wage plus tips on top to servers, bartenders, and other front-of-house workers.³¹

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 and paying a full minimum wage with tips on top.³²

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. In October 2023, Chicago City Council

²⁷ 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>.

²⁸ 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.

²⁹ Black, J. (September 2021). How To Make an Unloved Job More Attractive? Restaurants Ticker With Wages. New York Times. <https://www.nytimes.com/2021/09/20/dining/restaurant-wages.html>.

³⁰ One 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_RaisingWagesToReopen_3.pdf.

³¹ OFW Employer Database

³² NBC News. Jan 2024. At least five states are considering requiring full minimum wages for tip earners this year. <https://www.nbcnews.com/business/economy/tipped-workers-minimum-wage-rcna132172>

voted to end the subminimum wage for tipped workers altogether, with a vote of 36-10.³³ One Fair Wage legislation is now moving in 13 states nationwide - 9 states via legislation, including CT and NY, and 4 states where One Fair Wage will be on the ballot in November, including MI, OH, AZ, and MA³⁴. It's a historic moment: for the first time since Emancipation that millions of workers are rejecting the subminimum wage for tipped workers, and employers must pay One Fair Wage in order to survive.

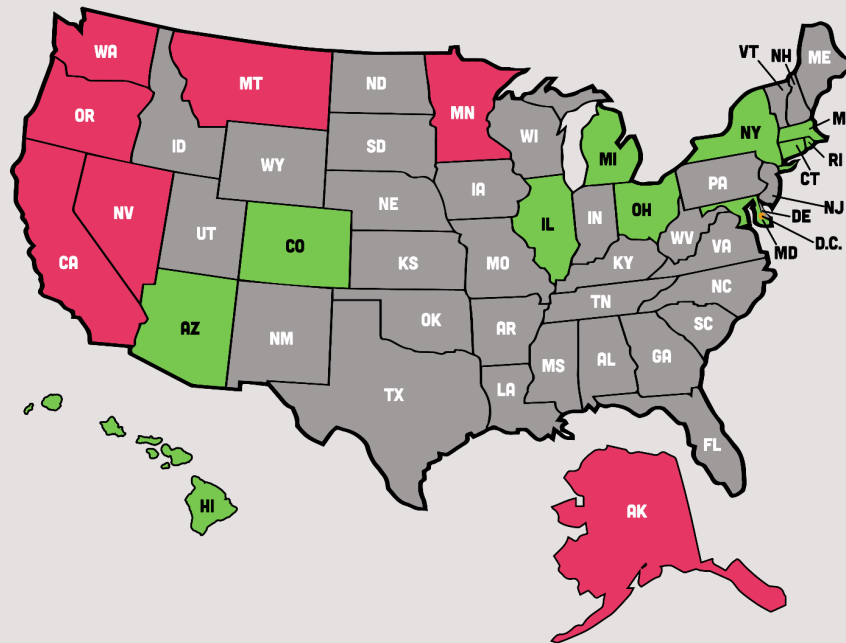
³³ Chicago Eater, September 2023.



<https://chicago.eater.com/2023/9/19/23881229/chicago-tipped-minimum-wage-ordinance-one-fair-wage-victory-restaurant-association-saru-jayaraman>

³⁴ NBC News. Jan 2024. At least five states are considering requiring full minimum wages for tip earners this year. <https://www.nbcnews.com/business/economy/tipped-workers-minimum-wage-rcna132172>

ONE FAIR WAGE ACROSS THE NATION

PROGRESS AND ORGANIZING MAP



-  - states that already have OFW
-  - states where OFW is organizing



With Maryland's subminimum wage for tipped workers at \$3.63 per hour, Maryland restaurants will face an even greater staffing crisis than they have already faced if Maryland does not follow this national trend to end 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 package³⁵. In 2021, while addressing restaurant owners concerns regarding the labor shortage, President Biden

³⁵ 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/>.

urged employers to pay higher wages to workers, and specifically called out the need to pay tipped workers a \$15 minimum wage plus tips.³⁶

Now with the critical 2024 elections, the issue has become even more critical: the cost of living is at the top of every poll, especially polls of the most disinterested voters.

Recent polls of voters of color and youth have shown that cost of living is the top issue on voters' minds. The poll conducted for UnidosUS and Mi Familia Vota, asked 3,037 Latinos to pick the most important issues for Congress to address. Inflation and the rising cost of living were named by 54% of Latinos and jobs and the economy came in second (44%).³⁷ As per CIRCLE's early poll of youth (ages 18-34) ahead of the 2024 presidential election, young people are sending a clear message that their primary concern is the economy. 53% chose the cost of living/inflation among their three top issues, followed by jobs that pay a living wage (28%).³⁸

This means that there is a Raise the Wage Voter Bloc - voters who will turn out to vote if wage increases are on the ballot and who will vote for candidates who support wage increases, and not for those who don't. There is only one policy solution to the rising cost of living: putting more money in people's pockets, such as through SB 160.

As per MIT's Living Wage calculator, the living wage for a family of two working adults with two children in Maryland is \$27.32 per hour, well above the current minimum wage³⁹.

By passing One Fair Wage, Maryland legislators can end a legacy of slavery, diminish racial inequity and sexual harassment in the restaurant industry, align with President Biden's agenda, engage unlikely voters and allow independent restaurant owners across the states to fully reopen, and their workforce to fully recover.

³⁶Brest, 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>.

³⁷ NBC News. Suzanne Gamboa. Large Latino poll finds cost of living and economy top voters' concerns <https://www.msn.com/en-us/news/politics/large-latino-poll-finds-cost-of-living-and-economy-top-voters-concerns/ar-A1kJc9x>

³⁸ Peter de Guzman, Alberto Medina (November 2023). Youth and the 2024 Election: Likely to Vote and Ready to Drive Action on Key Political Issues.

<https://circle.tufts.edu/2024-election-youth-poll#diverse-issue-priorities,-like-climate,-shape-youth-votes-and-action>

³⁹ MIT Living Wage Calculator Maryland <https://livingwage.mit.edu/states/24>

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TESTIMONY IN SUPPORT OF SENATE BILL 160
Labor and Employment - Payment of Minimum Wage - Tipped Employees
Finance Committee
2/1/2024

Social Work Advocates for Social Change strongly supports SB160, which would guarantee that tipped workers in Maryland are paid the minimum wage. Employers are currently required to pay \$3.63/hour to tipped workers. SB 160 would gradually increase the amount that employers are required to pay, and by 2027 tipped workers would be required to receive the minimum wage. This would prevent tipped workers from earning a sub-minimum wage and from being vulnerable to discrimination. It would also allow the restaurant industry to grow and stay competitive in the labor market.

Many tipped workers are paid less than the minimum wage. While employers are required to make up the difference if workers earn less than the minimum wage after tips, many do not. In 2019, the federal Department of Justice found that 84% of employers investigated violated wage and hours laws.¹ **Overall, the restaurant industry is the largest employer of workers who earn less than the minimum wage.**¹

Requiring workers to depend on generosity to earn the minimum wage is unjust. According to labor historians, the tipped wage system originated after slavery, when businesses avoided paying wages to many Black service workers and required them to live off tips.² The legacy of slavery explains why most American service workers are not guaranteed the minimum wage even though many European countries guarantee service workers a living wage.³ Even for workers whose total income may occasionally exceed the minimum wage, the inconsistency of tips opens them up to financial insecurity, as their bills do not fluctuate as their income does. In addition, tipped workers are more vulnerable to harassment than non-tipped workers because of having to rely on generosity to earn a living. **A study found that 76 percent of tipped workers experienced sexual harassment.**⁴

Requiring a fair wage for tipped workers would allow workers to earn more. Tips in the states that require a fair wage are the same as those in the states that do not, and

¹ US Bureau of Labor Statistics. (2020). Report 1085: Characteristics of minimum wage workers, 2019. <https://www.bls.gov/opub/reports/minimum-wage/2019/pdf/home.pdf>

² Jayaraman, Saru. (2016) Chapter 2: Casual and Family-Style Restaurants. Forked. Oxford University Press.

³ Rodricks, D. (2024, January 25). The problem with Maryland's 'tipped wage' system and why it needs to go Baltimore Sun. <https://www.baltimoresun.com/2024/01/25/dan-rodricks-tipped-wages/>

⁴ One Fair Wage. (2021). One Fair Wage Myths & Facts. https://onefairwage.site/wp-content/uploads/2021/04/OFW_MythsAndFacts_6

tipped workers earn more in fair-wage states overall.⁵ This is true for workers at fine dining establishments with the highest tip earnings and those at casual restaurants with the lowest tip earnings.⁵ Contrary to popular belief, high-tip earners make more on tips in fair-wage states than in sub-minimum wage states.⁶

A fair wage would also benefit restaurants and small business owners. According to the National Restaurant Association, restaurant sales grew by 17 percent in fair-wage states as opposed to sub-minimum wage states from 2016-2019.⁷ In addition, employment at small business restaurants grew by 8.37 in fair wage states as opposed to 5.95 percent for sub-minimum wage states from 2016-2019.⁴ Maintaining the sub-minimum wage makes Maryland restaurants less viable in the labor market, especially given that the labor force participation rate in Maryland is below pre-pandemic levels.³ People who might be interested in working in restaurants may choose to work in other industries. They may also choose to work in Washington, DC, which recently passed fair wage legislation.

Providing tipped workers with a fair wage would provide vital support to low-wage workers. It would also allow Maryland's restaurant industry to grow and be competitive in the labor market. **As a result, Social Work Advocates for Social Change urges a favorable report on SB 160.**

Social Work Advocates for Social Change is a coalition of MSW students at the University of Maryland School of Social Work that seeks to promote equity and justice through public policy, and to engage the communities impacted by public policy in the policymaking process.

⁵ Average tipping rates for all states in 2016 and 2017 using Square data based on millions of observations. See Ferdman, R.A. (March 2014). Which US states tip the most (and least), based on millions of Square transactions. Quartz.; and Johnson, D. (August 2017). Find out which states give the worst tips. Time.

⁶ U.S. Bureau of Labor Statistics. (May 2019). Occupational Employment and Wages - Waiters and Waitresses. Occupational Employment Statistics. <https://www.bls.gov/oes/2019/may/oes353031.htm>

⁷ 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.

NELP Testimony in Support of One Fair Wage in MD (

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Testimony of Yannet Lathrop

National Employment Law Project

In Support for *One Fair Wage* (SB 160)

Hearing before the Maryland Senate Finance Committee

February 1, 2024

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Thank you, Chair Beidle, Vice Chair Klausmeier, and members of the Senate Finance Committee, for the opportunity to testify today. My Name is Yannet Lathrop, and I am a senior researcher and policy analyst for the National Employment Law Project (NELP). NELP is a national nonprofit advocacy organization that for more than 50 years has sought to build a just and inclusive economy where all workers have expansive rights and thrive in good jobs. We partner with federal, state, and local lawmakers and local community-based groups on a wide range of workforce issues, including the minimum wage and the tipped wage.

NELP testifies today in strong support of One Fair Wage (SB 160), which would gradually eliminate the subminimum tipped wage in Maryland and ensure that workers in all occupations—including tipped occupations—earn at least the full minimum wage as their base wage.

The Elimination of the Subminimum Tipped Wage Would Put Maryland on a Path to Greater Racial and Gender Justice

Along with 14 other states, Maryland has either reached, exceeded, or is on a path to a minimum wage of \$15 per hour. However, Maryland’s tipped cash wage has been frozen at pitiful \$3.63 since 2009 when it was equivalent to 50 percent of the state minimum wage.¹

Today, the tipped cash wage is equivalent to just 24 percent of the current full minimum wage. (See Table 1). This means that in the 15 years since the tipped wage was last increased, tipped workers have been forced to rely on tips for an increasing share of their total hourly pay.

Year	Full Minimum Wage	Tipped Wage	Gap (\$)	Gap (%)
2009	\$7.25	\$3.63	\$3.62	50%
2023	\$13.25	\$3.63	\$9.62	73%
2024	\$15.00	\$3.63	\$11.37	76%

Source: NELP analysis of Maryland’s minimum and tipped wages.

Eliminating the tipped wage is not only a matter of wage parity between occupations, but also a matter of gender and racial justice. Maryland’s restaurant tipped workers are largely women and persons of color. There are 53,000 restaurant servers and bartenders in Maryland. Of these, the majority are women (64 percent), and a substantial share are people of color (44 percent).² As Table 1 shows, the tipped subminimum wage puts tipped workers in a situation where they must depend on customer tips for a disproportionate share of their pay, which results in widely fluctuating incomes³ and is one of the main reasons that tipped workers face double the poverty rate of other workers.⁴

Seven States Have Already Phased Out the Subminimum Tipped Wage, and a Growing Number of Local Jurisdictions are Doing the Same; Maryland Should Join Them

Seven “one fair wage” states already prohibit a lower cash wage for tipped workers: Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington. The District of Columbia; Michigan;⁵ Chicago, Illinois; and Flagstaff, Arizona will soon join them—in recent years, these jurisdictions adopted a gradual elimination of the tipped subminimum wage.

In three of these one fair wage states (California, Oregon, and Washington) and in Washington D.C., Chicago, and Flagstaff the minimum wage has already reached or exceeded a \$15 minimum wage; and in Minnesota’s two largest cities (Minneapolis and Saint Paul), the minimum wage has reached \$15 for some employers, and will reach this same wage rate for all others in the coming years. None of these state or local economies have been negatively impacted, and in fact, analysis by the advocacy organization One Fair Wage suggests that states without a lower tipped wage have thriving restaurant industries and healthy tipping rates.⁶ **The experience of these state and local jurisdictions demonstrates that it is feasible—and indeed desirable—to both lift the standard wage floor to robust levels, and phase out the lower tipped wage.**

The movement to eliminate the tipped wage is growing. In addition to recent victories in Washington D.C., Chicago, and Flagstaff, advocates are advancing bills and ballot initiatives in Arizona, Illinois, Massachusetts, New York, Ohio, and Rhode Island. With SB 160, Maryland has an opportunity to take a place among leaders in the movement for wage parity.

Decades of Research on the Minimum Wage Demonstrates that Higher Wage Floors Boost Workers’ Incomes Without Adverse Employment Effects

Decades of economic research have found that higher minimum wages raise the earnings of underpaid workers without affecting their employment. This is true of the restaurant sector as it is of the wider economy. For example, a 2022 study by University of California economists analyzed the impact of statewide and local policies increasing the minimum wage to \$15 or more in California, with a focus on restaurant workers and teens—two groups most affected by minimum wage policies. The study found that these policies had “substantial and ongoing pay increases throughout the treatment period and (...) no significant disemployment effects, even in relatively low-wage counties.”⁷ California, as discussed above, is one of the seven states without a lower tipped wage.

The pandemic has not called this near consensus into question. In fact, during the beginning of the pandemic, we witnessed jobs numbers drop to record lows as governments imposed lockdowns to contain the spread of the virus. And as economies began to open back up in mid-2020, we saw employers attempting to rebuild their workforces by raising wages—showing in real time that higher pay does not automatically lead to disemployment effects, and that in fact, wage increases can be a boon to workers and employers alike. Again, this is true of the restaurant sector as it is of the wider economy.

Recommendations

For the reasons discussed above, NELP urges a favorable report on SB 160.

Endnotes

1. “Minimum Wages for Tipped Employees - Historical Tables,” U.S. Department of Labor, Wage and Hour Division, <https://www.dol.gov/agencies/whd/state/minimum-wage/tipped/History>.
2. NELP analysis of American Community Survey 1-Year Estimates, Public Use Microdata Sample (2022). For the purpose of this analysis, “white” is defined as non-Hispanic or non-Latino white, and workers of color as all others.
3. Leo Gertner, “Initiative 77 is a Vital Measure for D.C.’S Almost 30,000 Tipped Workers,” National Employment Law Project, June 8, 2018, <http://stage.nelp.org/news-releases/initiative-77-vital-measure-d-c-s-almost-30000-tipped-workers/>.
4. Sylvia A. Allegretto and David Cooper, “Twenty-Three Years and Still Waiting for Change: Why It’s Time to Give Tipped Workers the Regular Minimum Wage,” Economic Policy Institute and UC Berkeley Center on Wage and Employment Dynamics, July 10, 2014, <https://files.epi.org/2014/EPI-CWED-BP379.pdf>.
5. In 2018 in Michigan, a minimum wage ballot initiative—which included a provision phasing out the lower tipped wage—was adopted and gutted by the state legislature. Advocates sued, won in the lower court, and expect to prevail in the Michigan Supreme Court, which will soon hear the case.

Additionally, a ballot initiative that would raise the state's minimum wage to \$15 and gradually eliminate the tipped wage may appear on the November 2024 ballot. For more, see <https://onefairwage.site/michigan> and <https://www.yahoo.com/now/ruling-michigan-tipped-wages-could-015651031.html>.

6. "One Fair Wage: The Key to Saving the Restaurant Industry Post-Covid 19," One Fair Wage, accessed March 7, 2023, https://onefairwage.site/wp-content/uploads/2022/05/OFW_FactSheet_USA.pdf.
7. Carl McPherson, Michael Reich and Justin C. Wiltshire, "Are \$15 Minimum Wages Too High?" Institute for Research on Labor and Employment, updated December 25, 2022, <https://irl.berkeley.edu/publications/working-papers/are-15-minimum-wages-too-high/>.

SB0160 WDC 2024 Testimony Final.pdf

Uploaded by: Virginia Macomber

Position: FWA



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**Senate Bill 0160 - Labor and Employment - Payment of Minimum Wage - Tipped
Employees
Finance Committee – February 1, 2024
SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2024 legislative session. WDC is one of Maryland's largest and most active Democratic clubs with hundreds of politically active members, including many elected officials.

WDC urges the passage of [SB0160](#) *Labor and Employment - Payment of Minimum Wage - Tipped Employees*. This bill will end the Maryland subminimum "tipped" wage rate (currently \$3.63/hour) that applies to tipped workers, a legacy of slavery. Tipped workers are employees who regularly receive more than \$30 each month in tips. The difference between the subminimum wage that an employer must pay its tipped workers and the State minimum wage rate (currently \$15/hour) must be made up in tips (tip credit), as recorded by the employer, or the employer must pay the difference. This bill incrementally raises the subminimum wage for tipped workers until July 1, 2027, when a tipped worker must be paid the current State minimum wage. This bill also establishes the *High Road Kitchen Program* to recognize those restaurants that complete equity training and pay their tipped employees the full State minimum wage. *High Road Kitchen* Certified restaurants will be issued a Certificate that they can display.

The sub-minimum tipped wage rate results in significant inequities – especially for the majority of tipped workers who do not work for fine dining establishments and may not even earn the State Minimum Wage because of wage theft. The median wage for tipped workers in Maryland is only \$20,000/year. According to the [Maryland Center for Economic Policy](#), one-third of tipped workers have a family income less than double the federal poverty line. Nationally, tipped workers are 70 percent women, 43 percent people of color, and 30 percent are parents. Tipped workers have the highest rate of sexual harassment of any industry because they must tolerate inappropriate customer behavior to ensure a good tip. The Department of Labor also found that 84 percent of investigated restaurants had some sort of wage and hour violation. This system also results in different pay rates for tipped "front-of the house" employees (waiters, bartenders) and salaried "back of the house" employees (cooks, bussers, dishwashers).

We ask for your support for SB0160 and strongly urge a favorable Committee report. Passage of this legislation will boost women's paychecks, combat poverty, eliminate pay uncertainty and inequities, and help address persistent racial and gender pay gaps. However, WDC urges the Committee to address the practice of restaurants adding service charges without a clear explanation and how future tips must be shared between the "front of the house" workers and "back of the house" workers once all workers earn the same minimum wage.

Tazeen Ahmad
WDC President

Ginger Macomber
WDC Working Families Committee

Cynthia Rubenstein
Co-Chair, WDC Advocacy

SB 160 - UNF - MHLA.pdf

Uploaded by: Amy Rohrer

Position: UNF

MHLA
Maryland Hotel
Lodging Association

Testimony on behalf of the Maryland Hotel Lodging Association

In Opposition to
SB 160 – Labor and Employment - Payment of Minimum Wage - Tipped Employees
February 1, 2024
Senate Finance Committee

The Maryland Hotel Lodging Association (MHLA) serves as the sole statewide trade association dedicated to advocacy for Maryland’s 750+ hotels. Altogether our industry provides the state with \$1 billion in state and local taxes, \$5 billion in total wages and salaries, and \$9 billion in total gross domestic product.

Senate Bill 160 would incrementally reduce the tip credit for tipped employees beginning January 1, 2025, before prohibiting the tip credit entirely beginning July 1, 2027, and instead require an employer to directly pay an employee at least the State minimum wage.

Certain hotel employees, such as banquet servers, waitstaff, bartenders, doormen and bellman, may benefit from the existing tip credit. While they are guaranteed to make at least minimum wage, most employees in a tipped position typically bring home significantly more. If this legislation passes, by July 1, 2027, all tipped employees will have to be paid minimum wage, and we believe the era of tips will disappear—making it more difficult to find adequate staff and much more difficult to make a career out of a tipped position, which many individuals do today.

The existing tip credit is of benefit both to employees and employers, as well as the guests who benefit from excellent customer service provided by tipped employees, because the better the service, the larger potential tip.

For these reasons, the Maryland Hotel Lodging Association respectfully requests an Unfavorable Report on SB 160.

2024 GBCC SB 160 Tip Credit.pdf

Uploaded by: Ashlie Bagwell

Position: UNF



Testimony on behalf of the Greater Bethesda Chamber of Commerce

*In Opposition to
Senate Bill 160—Labor and Employment—Payment of Minimum Wage—Tipped Employees
February 1, 2024
Senate Finance Committee*

The Greater Bethesda Chamber of Commerce (GBCC) was founded in 1926. Since then, the organization has grown to more than 550 businesses located throughout the Greater Bethesda area and beyond. On behalf of these members, we appreciate the opportunity to provide written comments in opposition to Senate Bill 160—Labor and Employment-Payment of Minimum Wage-Tipped Employees.

The Greater Bethesda Chamber is opposed to legislation like Senate Bill 160 that would eliminate the tipped wage, even if that change is phased in over time. Such a policy shift would have a detrimental effect on restaurants, who already operate with razor-thin margins. In addition, Maryland’s restaurants continue to struggle as they recover from the COVID pandemic and inflation-related increases in costs. Many would be forced to increase menu prices and reduce staff. In fact, that is exactly what is happening in DC right now. A report conducted recently by the Montgomery County Office of Legislative Oversight, in surveying full-service DC restaurants and the impact of Initiative 82, found that many restaurants plan to reduce service hours, reduce menu items or, sadly, “probably close.”

We strongly believe the current tipping model in restaurants provides an opportunity for workers to earn far beyond minimum wage while never making less than minimum wage. This is why we opposed legislation introduced last year in Montgomery County, and it’s why we oppose Senate Bill 160. We urge an unfavorable vote.

SB0160 -- Labor and Employment - Payment of Minimu

Uploaded by: Brian Levine

Position: UNF



SB 160 -- *Labor and Employment - Payment of Minimum Wage - Tipped Employees*
Senate Finance Committee
February 1, 2024
Oppose

The Montgomery County Chamber of Commerce (MCCC), the voice of business in Metro Maryland, opposes Senate Bill 160 -- *Labor and Employment - Payment of Minimum Wage - Tipped Employees*.

Senate Bill 160 proposes to incrementally reduce and eventually eliminate the tip credit for tipped restaurant employees. MCCC opposes this legislation because it would have a profoundly negative impact on both tipped restaurant workers and full service restaurant operators.

Many restaurant operators continue to face economic challenges adapting their businesses to a post-pandemic environment. Despite this reality, this bill proposes to dramatically change the restaurant industry's labor costs and create an entirely new business and profitability model for restaurant operators. With the elimination of the tip credit, many restaurants would have to raise menu prices and impose service charges on customer checks to cover substantially higher labor costs.

For restaurant servers, the elimination of the tip credit would significantly reduce earnings and drive people away from the industry, which has already seen upheaval following the pandemic. Simply put, restaurant servers make significantly more money under the current tipping system. Customers are unlikely to tip on top of service charges and higher menu prices that would occur with the elimination of the tip credit. It is also important to note that if tipped restaurant employees do not earn at least the minimum wage per in base wages plus tips, they are required to be compensated for the difference by the employer as required under state and local laws.

The Maryland General Assembly has previously considered similar measures to eliminate the tip credit and they have been met by opposition from restaurant operators and restaurant workers alike. On the local level, MCCC opposed similar legislation that was considered in the Montgomery County Council but was later defeated and withdrawn. In neighboring Prince George's County, the County Council also considered and ultimately rejected a proposal to eliminate the tip credit.

For these reasons, the Montgomery County Chamber opposes Senate Bill 160 and requests an unfavorable report.

The Montgomery County Chamber of Commerce, on behalf of our nearly 500 members, advocates for growth in business opportunities, strategic investment in infrastructure, and balanced tax reform to advance Metro Maryland as a regional, national, and global location for business success. Established in 1959, MCCC is an independent non-profit membership organization and a proud Montgomery County Green Certified Business.

Brian Levine | Vice President of Government Affairs
Montgomery County Chamber of Commerce
51 Monroe Street | Suite 1800
Rockville, Maryland 20850
301-738-0015 | www.mcccmd.com

SB 160 Oppose (February 2024).pdf

Uploaded by: Dawn Luedtke

Position: UNF



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

DAWN LUEDTKE
COUNCILMEMBER
DISTRICT 7

February 1, 2024

The Honorable Pamela Beidle
Chair, Finance Committee
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

RE: Senate Bill 160, *Labor and Employment - Payment of Minimum Wage - Tipped Employees*

Dear Chair Beidle,

I am writing to urge you to oppose Senate Bill 160, which would phase out the tip credit. A similar piece of legislation - Bill 35-23, County Minimum Wage - Tipped Employees¹ - recently came before the Montgomery County Council. The bill sponsor moved to withdraw Bill 35-23 on January 16, 2024,² before its scheduled joint Committee hearing.

I oppose SB160 because Montgomery County's tipped employees and employers overwhelmingly opposed ending the tip credit in our community. In correspondence, conversations, and at the Council's October 24, 2023 public hearing on Bill 35-23, tipped employees expressed the pride they have for the work they do and explicitly rejected the argument that the existing tip credit system marginalizes them.³⁴ None of them expressed any challenges with the existing tipped wage credit or compliance mechanism. Right now, it is illegal for an employer to pay a tipped employee a sub-minimum wage. All tipped employees are guaranteed to earn at least the applicable minimum wage with the current tip credit system. To

1

apps.montgomerycountymd.gov/cellims/DownloadFilePage?FileName=2812_1_25245_Bill_35-2023_Introduction_20230919.pdf

2

docs.google.com/gview?url=https%3A%2F%2Fmontgomerycountymd.granicus.com%2FDocumentViewer.php%3Ffile%3Dmontgomerycountymd_0e8e45361968c7a8de1ab531a80bef60.pdf%26view%3D1&embedded=true

3

montgomerycountymd.granicus.com/player/clip/16976?view_id=169&redirect=true&h=5eaa8afdd2ff63de9e79d56b3c580248

⁴ www.montgomerycountymd.gov/COUNCIL/OnDemand/testimony/20231017/item7.html

100 MARYLAND AVENUE • ROCKVILLE, MARYLAND 20850
240-777-7860 • Councilmember.Luedtke@montgomerycountymd.gov
www.montgomerycountymd.gov

the extent that any employer is not providing their staff at least the minimum wage with tips included, they are doing so illegally.

The employees we heard from further urged the Council to oppose Bill 35-23 because it would reduce their pay. Employers explained that switching to the proposed compensation model would result in using fewer servers per shift, place additional strain on an industry still recovering from the pandemic, and create higher costs for consumers without yielding a positive financial benefit to employees. These concerns - that phasing out the tip credit would reduce overall earnings and hours - were substantiated by a Council Office of Legislative Oversight Economic Impact Statement that reviewed empirical studies on the impacts of such policies elsewhere.⁵

I was struck not just by the overwhelming nature of tipped employees' opposition to phasing out the tip credit, but by how emphatically they expressed that this would hurt them financially. The intense opposition of these employees needs to be elevated.

I do not doubt the positive intentions of the bill's sponsors in bringing this measure forward, but it is a solution in search of a problem. Policymakers should heed the warnings raised by our tipped wage employees and employers from Montgomery County and vote no on SB160.

Very truly yours,



Dawn Luedtke
Montgomery County Council
District 7

cc: Members of the Finance Committee

⁵ www.montgomerycountymd.gov/OLO/Resources/Files/eis/2023/EIS-Bill35-23.pdf

SB 160_MDCC_Labor and Employment-Payment of Minimu

Uploaded by: Hannah Allen

Position: UNF



LEGISLATIVE POSITION:

Unfavorable

Senate Bill 160

Labor and Employment – Payment of Minimum Wage – Tipped Employees

Senate Finance Committee

Thursday, February 1, 2024

Dear Chair Beidle and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,800 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

Senate Bill 160 would reduce and ultimately eliminate the tip credit for tipped employees effective July 1, 2027.

The tip credit was established under the federal Fair Labor Standards Act in 1966 and is allowed under many state and local minimum wage laws. Maryland law allows employers to pay tipped employees a tip wage (cash wage) of at least \$3.63 per hour but under federal, state and local minimum wage laws, employers are required to make up any differences if a tipped employee does not make enough in combined tip wages plus tips to make at least the full applicable minimum wage per hour for the workweek. **Like all Maryland workers, tipped employees must earn at least the full applicable minimum wage per hour.**

As a result of the tip credit and being allowed to collect tips to subsidize their cash wage, tipped employees are among the highest earners in full-service restaurants (earning a median of \$27/hour including tips, according to National Restaurant Association research). Servers at fine-dining restaurants can earn \$40 or more per hour including tips. If Maryland's tip credit was eliminated, as SB 160 would require, **Maryland's full-service restaurants would incur significant increases in labor costs and tipped employees would earn less in wages.**

Further, to make up for the added costs, full-service restaurant employers would impose a 20 to 22 percent service charge on customer checks and would likely pay servers a flat hourly rate.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **unfavorable report** on **SB 160**.

SB160 Testimony_MTC.pdf

Uploaded by: Matt Libber

Position: UNF



January 30, 2024

Maryland Senate
Senator Pamela Beidle, Chair
Finance Committee
Miller Senate Office Building
Annapolis, Maryland 21401

RE: Opposition to SB 160 - Labor and Employment - Payment of Minimum Wage - Tipped Employees

Chairperson Beidle and Members of the Committee,

My name is Matt Libber, and I am a member of the Board of Directors and Legislative Committee Chairperson for the Maryland Tourism Coalition. I am writing to you to express our organization's opposition to Senate Bill 160. We fully understand the intent of this piece of legislation is to provide restaurant servers and bartenders in the State with wage protections. However, should this bill be enacted it will likely lead to these same workers making less than they currently are taking home each week. These workers already have protections in place that require the restaurants where they work to make up the difference if their tips fall short of the existing minimum wage, including any increases to that minimum wage by the State of Maryland or individual County.

This proposed change in the law will have a significant and negative impact on the earnings of these tipped employees as it will certainly lead to lower earnings through tips, as it has in every other jurisdiction that has enacted similar legislation. Restaurants will need to generate additional revenue to cover the increased labor costs from this change. That additional revenue will come in the form of increased menu prices and the addition of service charges. Customers will be hesitant to add gratuity when paying the bill when there is already a service fee added to their check. Restaurant staff will find that they are making only the minimum wage as they are no longer receiving tips, instead of the opportunity to make more than minimum wage under the current system, which still guarantees that they make at least minimum wage.



The higher operating costs for restaurants will also lead to a reduction in employment in the restaurant industry. Restaurants in other jurisdictions that have enacted this type of legislation have moved from full-service restaurants to counter service or have incorporated kiosks or digital ordering options to reduce the number of staff needed. This reduces the employment options in the community for a section of the population that already struggles to find meaningful employment opportunities.

Lastly, we will almost certainly see a reduction in the quality of service in restaurants if this bill is enacted. Restaurant workers are currently incentivized to provide exceptional service as they are rewarded through customer tips. Taking a major incentive away from these workers will drive a decline in the service provided by these workers in the high stress environment as top servers, bartenders and others will move to other jurisdictions or leave the industry during a time where the industry already struggles with staffing. This specific consequence of this Bill is of the most concern for our organization, as it has a direct effect on the tourism industry. Restaurants and their staff are on the front lines of the tourism industry. Visitors to our State have to eat during their stay so they are always interacting with these servers and bartenders. Restaurant workers serve as ambassadors for our State and provide valuable information to visitors and have a lasting impact on the visitor's impression of Maryland as a destination. If they have a negative, or lesser of an experience because the service was bad, or the cost is out of line with their expectations, they will not return to Maryland the next time they consider where to travel.

We ask that you vote against Senate Bill 160. While we believe the best intentions were behind its introduction, this Bill will do much more harm than good, and lead to most servers taking home less than they do now if they choose to stay in the industry or area. It will also directly lead to a reduction in the number of jobs in the industry and a negative effect on the quality of service in Maryland. The tourism industry is a competitive market and unnecessarily increasing prices and reducing the quality of service will only cause people to find somewhere else to spend their money outside the State.



**MARYLAND
TOURISM
COALITION**

For these reasons, the Maryland Tourism Coalition asks this committee to vote against this legislation.

Respectfully submitted,

Matt Libber
Legislative Chair
Maryland Tourism Coalition
mllibber@mdsoccerplex.org
301-528-1480

SB160_RestaurantAssoc_Thompson_UNFAVORABLE.pdf

Uploaded by: Melvin Thompson

Position: UNF

Contact:

Melvin Thompson
Senior Vice President
443-539-2455 (office direct dial)
mthompson@marylandrestaurants.com



February 1, 2024

Senate Bill 160

Labor and Employment - Payment of Minimum Wage - Tipped Employees

Position: OPPOSE

The Restaurant Association of Maryland strongly opposes Senate Bill 160 because of the negative consequences it would have on tipped employee earnings, restaurant operators, and customers.

Contrary to the false narrative used by advocates supporting legislation to eliminate the tip credit, there is no “subminimum wage” for restaurant tipped employees under state and local law. Tipped employees must earn at least the full applicable minimum wage per hour in base wages combined with tips. State and local minimum wage law allows employers to apply a tip credit to the minimum wage requirement for tipped employees. A minimum base wage is specified for the tip credit.

How the Tip Credit Works

The tip credit was established under the federal Fair Labor Standards Act in 1966 and is also allowed under most state minimum wage laws (43 states allow it).

Maryland’s minimum wage law allows employers to pay tipped employees a base wage of at least \$3.63 per hour (the base wage for tipped employees in Montgomery County is \$4.00 per hour). The tip credit is the difference between the minimum base wage and the full applicable minimum wage. Under state and local minimum wage law, employers are required to make up any deficiencies if a tipped employee does not earn enough in base wages plus tips to make at least the full minimum wage per hour for the workweek. Therefore, restaurant tipped employees are guaranteed by law to earn at least the minimum wage, and most earn significantly more with tips included.

Why the Tip Credit is Important to Full-service Restaurants

The full-service restaurant industry is very labor-intensive and operates on razor-thin profit margins (typically 3-5% pre-tax margin). Food and labor costs are the two most significant line items for a full-service restaurant, each accounting for approximately 33 cents of every dollar in sales. All other expenses, including occupancy costs, generally represent about 29% of sales. The tip credit is critical to the full-service restaurant business model and has helped to facilitate the growth of full-service restaurants in communities where they can be affordable to the customers they serve.

Advocates for eliminating the tip credit often say that the restaurant industry continues to grow in the 7 non-tip credit states. Restaurants opening in those states know that the tip credit will not be part of their business models. Therefore, they decide to open in communities/locations that will support their menu prices and/or service charges. Maryland restaurant owners, however, have made financial commitments and secured mortgages or long-term leases based on a business model that utilizes the tip credit. Eliminating the tip credit would be devastating to these restaurants.

Outcome of Previous State/Local Tip Credit Elimination Bills

Maryland servers, bartenders, restaurant operators, and policymakers have made it abundantly clear that they support maintaining the tip credit.

State and local policymakers in Maryland have consistently preserved the tip credit. In 2014, 2015, 2017, 2019 and 2023, the Maryland General Assembly considered legislation that would have phased out the tip credit statewide, but it failed to pass because of strong opposition from tipped employees and restaurant operators. Servers and bartenders have repeatedly urged lawmakers to reject such proposals because they earn significantly more money under the current tipping system.

Locally, a Prince George's County Council Committee decided (on 10/12/2023) not to move forward with legislation that would have phased out the tip credit there after hearing strong opposition from local servers and restaurant operators. The Montgomery County Council also heard strong opposition from local servers and restaurants during a 10/17/2023 public hearing on similar legislation. The Montgomery County legislation did not have enough Council support to pass and was withdrawn on 1/16/2024. In 2021, the Howard County Council voted to preserve the tip credit in their local minimum wage law.

Note: A Montgomery County Council Office of Legislative Oversight [Economic Impact Statement](#) on the tip credit elimination legislation anticipated that enactment of the bill would have a net negative impact on economic conditions in the County due to reasons that many tipped employees and restaurant operators expressed in their concerns about the proposal.

On January 16, 2024, the same day the Montgomery County tip credit legislation was withdrawn, the Office of Legislative Oversight released a report of [Preliminary Findings on the Economic Impact of Washington D.C.'s Initiative 82](#) (phasing out the tip credit). Among other enlightening information, pages 22-28 in Appendix 2 of the report includes open-ended survey responses from D.C. restaurant operators about the impact of phasing out the tip credit there, and "advice or suggestions" they would give to Montgomery Councilmembers who were considering enacting such a law.

How Much Full-Service Restaurant Tipped Employees Actually Earn

Tipped employees are among the highest earners in full-service restaurants (earning a median of \$27/hour including tips, according to [National Restaurant Association research](#)). Servers at some restaurants can earn \$40 or more per hour including tips.

In September-October 2023, the Restaurant Association of Maryland commissioned a survey of restaurant tipped employees in Montgomery and Prince George's Counties. The survey was conducted by CorCom, Inc. (Pittsburgh, PA). According to key findings from 257 respondents, many (37%) tipped employees said they are earning \$20.00-\$29.99 per hour, while others are earning \$30.00-\$39.99 per hour (28%), \$15.00-\$19.99 per hour (24%), or \$40.00 per hour or more (11%).

Tip Credit Elimination Impact on Servers, Restaurants and Customers

Restaurant server earnings would significantly decrease if the tip credit was eliminated because most restaurants would be forced to impose service charges on customer checks to cover the substantially higher labor costs. Customers are unlikely to tip on top of service charges. And there would be no incentive for servers to provide the best possible customer service if they were no longer rewarded with tips.

Menu price increases alone cannot cover the additional labor cost (which would exceed the current profit of most full-service restaurants) because such a large increase in menu prices would result in fewer customers.

If the tip credit was eliminated, some restaurants that could offer counter service to dine-in customers would likely eliminate server positions altogether.

Initial Impact of Phasing Out the Tip Credit in District of Columbia (D.C.)

Restaurants in the District of Columbia (D.C.) are starting to increase menu prices and impose service charges following passage of a 2022 ballot initiative that phases out the tip credit there, and customer feedback has been negative. Many frequent D.C. diners have changed their dining habits to eat out less or dine outside the city more often.

According to a National Restaurant Association survey of 944 frequent D.C. diners, 43% have been eating out less and 32% have been seeking dining options outside the city more often.

Results from a recent Restaurant Association of Metropolitan Washington survey of their restaurant members found that more than one-third of restaurants are experiencing a drop in sales and traffic. Summer sales fell for more than one-third (35%) of restaurants compared to 2022, dropping an average of 31%. Summer customer traffic fell for 44% of restaurants compared to 2022, dropping an average of 28%.

According to a January 29, 2024 [Restaurant Business online article](#) about the likely effects of ending the tip credit, the initial impact of phasing out the tip credit in D.C., along with soaring street crime and downtown office employees continuing to work from home, has resulted in D.C. full-service restaurants cutting their payrolls by 4.4%, or 1,300 jobs, according to federal jobs data.

Note: D.C. is currently experiencing the initial phases of eliminating the tip credit. The impact is expected to get worse as the tip credit elimination progresses there. Service charges, menu price increases and reduced staff/working hours are expected to become more prevalent.

Clarification regarding tips vs. service charges.

Under federal law and [IRS rules](#), service charges (sometimes called automatic gratuities) added to customer checks are part of the business's gross receipts and are not the same as tips. Although restaurants may choose to distribute all or part of such service charges to employees as regular wages (not tips), the law does not require it.

Eliminating the tip credit quadruples server labor costs. This will force many restaurants to impose service charges and use the revenue to cover these higher labor costs. Many D.C. restaurants are starting to impose service charges for this reason.

Bill Advocates' False Claim that 84% of Restaurants Violate Wage Laws Regarding Tip Credit

Supporters of legislation to eliminate the tip credit claim that an Obama administration report found that 84% of restaurants violate wage laws for tipped workers. This claim is false.

During our exhaustive research, we were unable to find any such 2014 report by the Obama administration. The only related language we could find was in a 2014 report by the Economic Policy Institute (a Washington, D.C.-based think tank) that supports eliminating the tip credit. This report language included the following excerpts regarding a 2010–2012 compliance investigation of nearly 9,000 full-service restaurants by the U.S. Department of Labor's Wage and Hour Division (WHD):

“... 83.8 percent of investigated restaurants had some type of violation.”

“Violations included 1,170 tip credit infractions that resulted in nearly \$5.5 million in back wages.¹⁷”

Report Endnotes: “17. Email correspondence with U.S. Department of Labor program analysts from the Wage and Hour Division”

Apparently, the basis for the related claim was WHD email correspondence that the authors of the Economic Policy Institute’s report used and cited – not a report by the Obama administration. Moreover, this statistic has been used incorrectly by bill advocates.

According to the referenced email correspondence with WHD analysts, 84 percent of investigated restaurants had “some type of violation.” And “violations included 1,170 tip credit infractions.” WHD violations can include many types of labor infractions. Bill advocates inaccurately claim that the 84 percent violations were regarding wage laws for tipped workers.

We reviewed WHD online violation data for the 2010–2012 compliance investigation period and found a total of 44 Maryland full-service restaurants with various types of labor violations. Of these, 10 full-service restaurants had violations related to minimum wage (which could include tip credit violations).

In Conclusion

Legislation to eliminate the tip credit is being pushed by a well-funded, Massachusetts-based activist group as part of their nationwide agenda. Maryland’s state and local policymakers should reject that group’s efforts to pursue their agenda at the expense of local restaurants and tipped employees who support maintaining the tip credit.

The tip credit maximizes the earnings potential of restaurant tipped employees, is critical to the full-service restaurant business model in Maryland, and should be preserved for businesses that choose to utilize it.

For these reasons, we oppose SB 160 and request an unfavorable report.

SB0160_UNF_MSLBA_Labor & Employment - Payment of M

Uploaded by: Steve Wise

Position: UNF



**MARYLAND STATE
LICENSED BEVERAGE ASSOCIATION**

150 E Main Street, Suite 104, Westminster, MD 21157

TO: The Honorable Pamela Beidle, Chair
Members, Senate Finance Committee
The Honorable Arthur Ellis

FROM: J. Steven Wise
Pamela Metz Kasemeyer
Danna L. Kauffman
Andrew G. Vetter
410-244-7000

DATE: February 1, 2024

RE: **OPPOSE** – Senate Bill 160 – *Labor and Employment – Payment of Minimum Wage – Tipped Workers*

The Maryland State Licensed Beverage Association (MSLBA), which consists of approximately 800 Maryland businesses holding alcoholic beverage licenses (restaurants, bars, taverns, and package stores), **opposes** Senate Bill 160.

Senate Bill 160 would eliminate in 2027 the so-called “tip credit” that allows tips to be included in the calculation of an employee’s wages. Currently, an employer must still pay an hourly wage of at least \$3.63 per hour but is also allowed to factor in tips that the employee receives when computing total wages. The total of the two must still equate to the minimum wage or higher.

MSLBA does not believe that eliminating the tip credit is appropriate or in the best interests of employees who are paid in this manner. Such a change would ultimately have the effect of converting these employees to strict hourly wage earners with greatly reduced ability to earn more than the minimum wage, as many do currently. Why? Because employers would face higher wage costs, and to meet those costs would raise menu prices. Consumers, faced with those higher fixed costs for dining out, would trim or eliminate their tipping practices. The effect is that any upside to an employee who provides excellent customer service will go unrewarded by the consumer.

Further, our members do not hear from their tipped employees asking for this change to be made. We, therefore, do not think the legislation is needed.

For these reasons, MSLBA kindly asks that the Committee give this legislation an unfavorable report.

2023 Opposition to SB160 Minimum Wage Tipped Emplo

Uploaded by: Susan Jones

Position: UNF



HOTEL • MOTEL • RESTAURANT • ASSOCIATION • INC.

TESTIMONY OFFERED ON BEHALF OF
THE OCEAN CITY HOTEL-MOTEL-RESTAURANT ASSOCIATION
Opposition of SB160 – Payment of Minimum Wage – Tipped Employees
Before the Senate Finance Committee February 1

On behalf of the Ocean City Hotel-Motel-Restaurant Association and our 420 members, I am writing in opposition to SB160 Payment of Minimum Wage Tipped Employees. Restaurant operators pay tipped employees a base hourly wage to which the tip amount the employee receives is added. If this combined wage is not equal to the required hourly minimum wage, the restaurant operator is required by law to make up the difference. Recent law required restaurant operators who include tip credit as part of wage to provide a written/electronic wage statement for each pay period that shows the effective hourly tip rate derived from employer-paid cash wages, plus all reported tips for tip credit hours worked each workweek of the pay period.

Tipped positions **reward hard work** and good service **providing employees the ability to earn higher wages while offering the safety net of minimum wage**, controlling one's destiny. Examples of tipped restaurant employees in Ocean City include food runners, bussers, servers, bartenders, and with tips, their hourly range is from \$17-\$50/hour; no tipped employee ever makes less than the required minimum wage. If the tip credit is removed, many restaurants will eliminate tipping and move to an hourly wage system. Employees who were traditionally tipped would have far less earning potential, restaurants would be forced to reduce employee hours, raise prices, and operate with fewer employees to manage the higher hourly wage costs.

Eliminating the tip credit and paying everyone the same rate also means that the experienced employee would make the same as the trainee one hour into their new job. In essence, this is a participation trophy wage, and such practices create a less-than-motivated workforce. Disruptions to the standard restaurant model have already begun to eliminate entry-level positions. Many restaurants have been forced to implement equipment and technology to deal with the increased legislation, in turn pushing increased prices onto consumers. Couple that with fancy disposables, pre-cut produce, and pre-made entrees and you are eliminating many entry positions, reducing employment opportunities for the young, less educated, and those seeking flexible schedules. We respectfully ask for **opposition to SB 160**. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads 'Susan L. Jones'.

Susan L. Jones, Executive Director