

RECIPE FOR SUCCESS:
**Abolish the Subminimum
Wage to Strengthen the
Restaurant Industry**



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Introduction/Summary

The true federal minimum wage in the United States is \$2.13 per hour.

Workers who receive tips have had their wage frozen at \$2.13 an hour since 1991. For 23 years, workers who receive tips have not received a raise; with such low wages, these workers must depend on tips for the majority of their income.¹ Although employers are required by federal law to ensure that tips bring tipped workers up to the overall minimum wage of \$7.25 an hour, the U.S. Department of Labor reports that there is pervasive non-compliance with this regulation.² As a result, tipped workers can earn as little as \$2.13 an hour including tips; these workers depend on food stamps and live in poverty at twice the rate of the general population. Tipped restaurant workers, the vast majority of tipped workers, suffer from three times the poverty rate of the general population.³ Although 63% of tipped workers are restaurant workers, including servers, bartenders, and dining room attendants, a substantial number are in occupations such as healthcare support, personal care, and transportation.⁴

Women make up two-thirds of all tipped workers.⁵ The tipped minimum wage puts women in the compromising position of having to please clients and employers since their livelihood depends on their tips. Not surprisingly then, 7% of American women work in restaurants, but 37% of all sexual harassment claims to the EEOC come from the restaurant industry.⁶ Among the six million tipped workers in the United States, the median age is 31, a third are parents, and nearly half of all tipped worker mothers are single mothers.⁷ Latinos, Blacks, and Asians are overrepresented among tipped workers.⁸ Tipped workers thus epitomize the Rising American Electorate.

All tipped workers do not earn \$2.13 an hour. There are seven states, employing over 1 million tipped workers that have decided that no worker should have to rely on tips for any portion of their income. In those states, tipped workers earn the full minimum wage, and the poverty rate among tipped workers has been reduced by a third.⁹ An additional 23 states have increased the tipped minimum wage.¹⁰ The average tipped minimum wage among states and territories that have raised their tipped minimum wage since 1991, is set at 70 percent of the current federal minimum wage, and reaches as high as 130% of the federal minimum wage among states that have eliminated it.¹¹

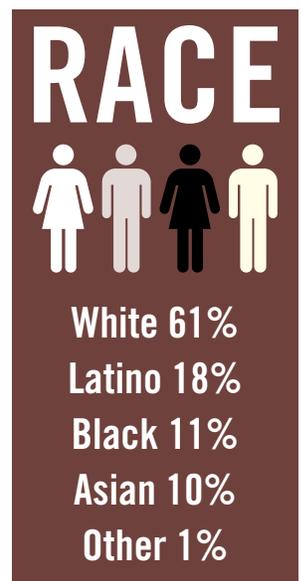
This report finds that across the country, restaurant sales and restaurant employment per capita increase as the tipped minimum wage increases because workers stay at their jobs longer, increase productivity, focus on customer service, and spend their own income to support the industry. It's time to abolish the tipped minimum wage.

What is the tipped minimum wage?

There is no official list of tipped occupations. Instead, under federal law, any worker can be classified as a tipped worker if they receive at least \$30 per month in tips.¹² To capture the universe of tipped workers this report includes currently employed civilian workers who regularly receive tips in food preparation and serving, healthcare support, personal care and service, and transportation and material moving occupations.

Prior to 1966, tipped workers received the same minimum wage as other workers. It was not until 1966 that employers were allowed to pay tipped workers a subminimum wage that was set at 50% of the full minimum wage.¹³ From 1966 on, customers were handed the task of paying for a substantial portion of employee wages. The exact amount ranged up to 60% but never dipped below 50%.¹⁴ 1991 was the last year that the subminimum wage saw an increase to \$2.13. Twenty three years ago, in 1996, the National Restaurant Association, under the leadership of Herman Cain, negotiated with Congress to permit an increase to the full minimum wage as long as the tipped minimum wage were frozen at \$2.13.¹⁵ It has remained frozen at \$2.13 ever since. As a result, the United States is the only industrialized nation where tipped workers must depend on tips for a majority of their income.¹⁶ Although tipping restaurant workers and other professions is customary in dozens of countries, it is generally treated as a method of rewarding good service. In no country is tipping required. Only in the United States do tips provide the bulk of an employee's income, and yet tipping practices are largely inelastic; individuals tend to tip the same regardless of service. However, servers can receive larger tips if they touch their customers, call customers by name, smile, crouch next to the table, and engage in other similar behaviors.¹⁷

Employers are required by law to ensure that any tips that an employee receives make up the difference between \$2.13 and the tipped minimum wage. However, this rarely happens. From 2010-2012, the Wage and Hour Division of the Department of Labor conducted nearly 9,000 investigations in the full service sector of the restaurant industry, and found an 84% non-compliance rate. The Wage and Hour Division recovered \$56.8 million in back wages for nearly 82,000 workers and assessed \$2.5 million in civil money penalties.¹⁸ This past month, February 2014, a restaurant chain in PA and NJ, Chickie's & Pete's, was forced to pay \$8.5 million for misappropriating tips and failing to pay the minimum wage.¹⁹ Our current system of allowing a subminimum wage for tipped workers encourages this abuse.



AGE

31
MEDIAN AGE

≤24	33%
25-34	25%
35-44	17%
45+	26%

MARITAL & PARENTAL STATUS

Married	32%
Parents	31%
Dads	22%
Moms	36%
Single Moms	17%

Who Are Tipped Workers?

There are six million tipped workers working in occupations as varied as massage therapists, barbers, nail salon attendants, airport passenger attendants, and bartender assistants. Although the restaurant industry employs the vast majority of tipped workers, nearly forty percent of all tipped workers are not in the restaurant industry.²⁰

Tipped workers are young, but they are not teenagers seeking temporary employment. Half of all tipped workers are over 30 years old, 32% are married, and 31% are parents.²¹ People of color are overrepresented among tipped workers. Nearly 20% are Latino, over 10% are African American, and a full 10% are Asian.²² Nearly one fifth of all tipped workers are single mothers. Together, tipped workers embody the Rising American Electorate — historically ignored groups who have played a decisive role in deciding the last few elections.

However, the overwhelming majority of tipped workers are women. Two thirds of tipped workers are women, and nearly 40% of them are mothers.²³ Especially because they are dependent on customers' tips for their income, in order to feed themselves and their children, women are forced to tolerate significant abuse from customers, co-workers, and management. Nearly 40% of all EEOC charges by women regarding sexual harassment come from the restaurant industry, and the EEOC has targeted the restaurant industry as the single largest source of sexual harassment claims, even though less than 7% of employed women work in the restaurant industry.²⁴ Over 10% of the more than 4,300 restaurant workers ROC has surveyed report sexual harassment in their restaurant. An examination of EEOC verdicts paints a picture of pervasive and inappropriate verbal and sexual harassment and assault, with unenforced or absent sexual harassment policies and training.²⁵ The current tipped

wage system, where women are forced to toil at a subminimum wage and depend on tips in order to earn their living, is a system ripe for systematic abuse.

Approximately 10% of workers in the restaurant industry do earn a living wage, primarily bartenders and servers in fine dining establishments.²⁶ Unfortunately, these positions are largely denied to women and people of color.²⁷ Over 20% of tipped restaurant workers live in poverty, three times the rate of the rest of the US workforce.²⁸ Sixteen percent of tipped workers depend on food stamps to put food on their table, twice the rate of the US workforce.²⁹ And 40% of tipped workers who are parents depend on free hot lunches to feed their children.³⁰ Average wages for tipped workers are dramatically impacted by the few good jobs in fine dining, but this does not represent most tipped workers. A significant portion of tipped workers live

FIGURE 1
The percentage of workers living in poverty falls as the minimum wage increases.



in poverty and depend on public assistance to feed themselves and their children. In a terrible irony, the women who feed us cannot afford to feed themselves or their families.

The number of workers living in poverty significantly declines as the minimum wage increases (SEE FIG. 1).³¹ In the seven states that have eliminated the tipped minimum wage, the poverty rate among tipped workers is lower by one third, 14% compared to 20% in \$2.13 states.³² This reduction in poverty is more significant for workers of color. Eliminating the tipped minimum wage in these seven states means lower poverty rates among white workers — 16% of white workers in states with subminimum wages of \$2.13 for tipped workers live in poverty, while only 13% of white workers in states with no subminimum wages live in poverty. Among workers of color, a full 25% of workers of color in states with \$2.13 subminimum wages live in poverty, while only 14% of workers of color in states with no subminimum live in poverty.³³ Thus, eliminating the tipped minimum wage has effectively eliminated the racial poverty gap among tipped workers.

In states with a tipped minimum wage of \$2.13, the poverty rates for workers of color is nearly double that of the seven states without a tipped minimum wage, with one in four living in poverty.

WHITE	PEOPLE OF COLOR	ALL
POVERTY RATES IN \$2.13 STATES		
16%	25%	20%
POVERTY RATES IN STATES WITH NO TIP CREDIT		
13%	14%	14%

Can Business Afford to Raise the Tipped Wage?

The restaurant industry can afford to give its employees a raise. There are currently seven states that do not allow a subminimum wage, including Alaska, Montana, Nevada, Minnesota, California, Oregon, and Washington. Those states account for over one million tipped workers, and experience above average employment growth.³⁴ The restaurant industry projects employment growth over the next decade of 10.5% in the seven states without a tipped minimum wage, compared to 9.1% in states with a subminimum wage.³⁵ Tipped workers in California, with the largest restaurant industry in the country, earn the same \$8 per hour that all other workers receive. Tipped workers in Alaska and Nevada earn \$7.25 and \$8.25, and those states enjoy a projected 14% and 15% industry growth, respectively.³⁶

Of course, it is difficult to compare states directly. A close examination of state-by-state per capita actual sales in the restaurant industry over the last three years shows that per capita sales increase as the tipped minimum wage increases, and this effect is statistically significant every year (SEE FIG. 2, $p < .001$).

FIGURE 2
Restaurant sales per capita increase as the tipped minimum wage increases.

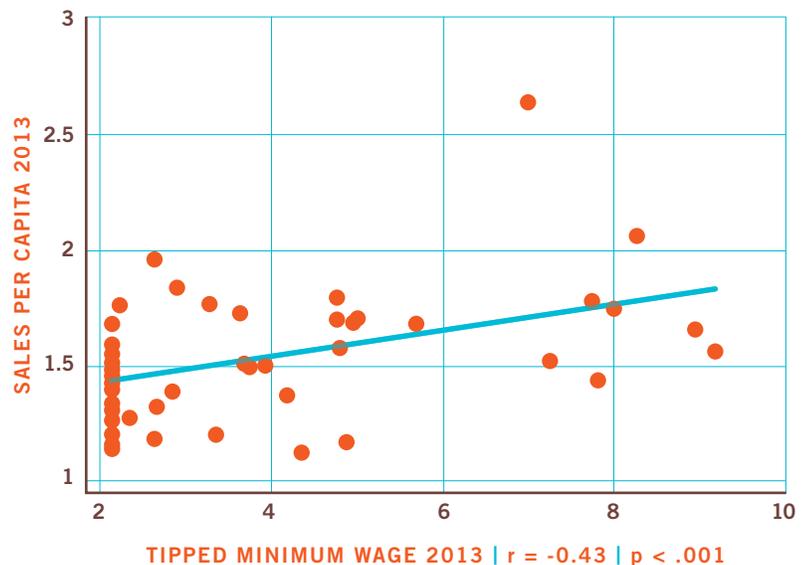
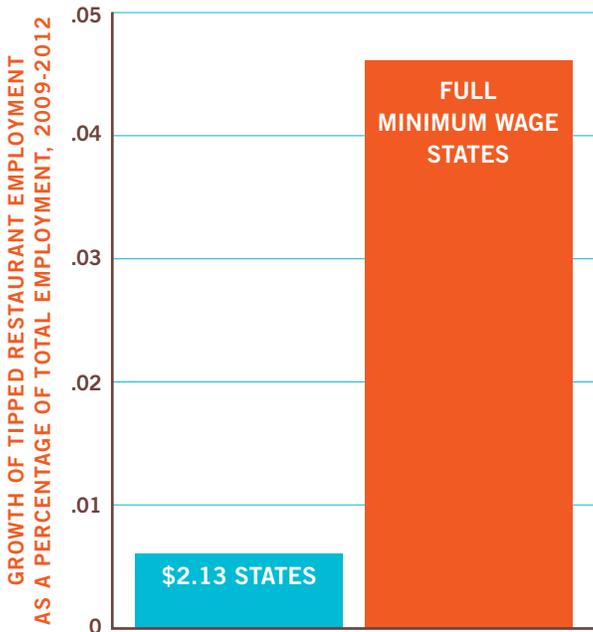


FIGURE 3

Tipped restaurant employment grows in importance as the tipped minimum wage rises.



One potential explanation for greater sales per capita is an increase in menu prices tied to greater labor costs. If that were true, one would expect to see employment among restaurant workers, and in particular tipped workers, stagnate or decline.³⁷ An examination of actual trends in restaurant employment since the end of the Great Recession in 2009, finds absolute growth in restaurant employment, including among tipped restaurant workers, across all states. To compare across states, average growth in restaurant industry employment as a percentage of total state employment is positive in all categories of states, and slightly higher in \$2.13 states. However, average growth among tipped workers as a percentage of both restaurant employment and as a percentage of total state employment tends to be higher in states that pay tipped workers above \$5 per hour, and is higher still in states that offer the full tipped minimum wage. In states with no tipped minimum wage, tipped workers have grown in importance as a percentage of the total economy (SEE FIG.3). Although a confound might be responsible for this relationship, a higher minimum wage is associated with higher restaurant sales per capita and increasing employment. As states increase the tipped minimum wage restaurant sales increase, as does the importance of tipped workers as a driver in the state economy.

Restaurant Sales and Employment Growth Increase as the Tipped Minimum Wage Increases

	2011 Real sales per capita ³⁸	2012 Real sales per capita	2013 Real sales per capita	2009-2012 Restaurant Tipped Worker Job Growth ³⁹	2009-2012 Restaurant Job Growth as % of Total Employment	2009-2012 Tipped Job Growth as % of Total Restaurant Employment	2009-2012 Tipped Restaurant Job Growth as % of Total Employment
National Average	1.45	1.49	1.53	2%	0.08%	-0.37%	0.01%
\$2.13 States	1.34	1.38	1.42	2%	0.09%	-0.37%	0.01%
Min. Wage > \$5	1.69	1.73	1.78	3%	0.07%	0.11%	0.04%
Full Min. Wage	1.60	1.64	1.68	4%	0.05%	0.49%	0.05%

A higher tipped minimum wage might affect sales and employment by increasing productivity, allowing workers to focus on customer service instead of maximizing tips, and creating a local stimulus by putting desperately needed funds directly in workers' pockets. Reduced turnover is also likely a key factor. A survey of over 1000 restaurant employers found that higher wages cut turnover in half, reducing hiring and training costs, and allowing for a more knowledgeable and productive workforce.⁴⁰ Increasing the minimum wage for tipped workers reduces opportunity costs that are an incentive for turnover, especially for restaurant workers that must care for their families, allowing knowledge to increase at the point of service and sales and leading to a more robust restaurant industry.

CONCLUSION

Abolish the Tipped Minimum Wage

Our current subminimum wage system encourages abuse and sexual harassment, and is based on the antiquated notion that tipped workers are either teenagers looking for extra cash in the summer, or that tipped workers all earn substantial incomes in tips. Tipped workers are neither wealthy nor teenagers. They are parents and spouses, many struggling to feed themselves and their children. Most significantly, they are overwhelmingly women who live in poverty, working in an industry that requires them to please customers in order to put food on their table.

The fact that states with a higher tipped minimum wage have higher restaurant sales per capita indicates that the industry could actually benefit from paying its workers a real wage, rather than forcing them to live off tips. For 23 years the tipped minimum wage has stood at \$2.13.

It is time to abolish the subminimum wage for tipped workers.

- 1 Wessels, W.J. 1997. "Minimum Wages and Tipped Servers." *Economic Inquiry*. Vol. 35, 334-349.
- 2 Allegretto, S. 2013. *Waiting for Change: Is it Time to Increase the \$2.13 Subminimum Wage?* Working Paper No. 155-13. Institute for Research on Labor and Employment, U-C Berkeley.
- 3 American Community Survey (ACS), 2012. Calculations by the Restaurant Opportunities Centers United (ROC-United) of civilian employed population based on Ruggles et al., *Integrated Public Use Microdata Series: Version 5.0* [Machine-readable database]. Minneapolis: Minnesota Population Center, 2010.
- 4 Ibid.
- 5 Ibid.
- 6 Restaurant Opportunities Centers United, 2012. *Tipped Over The Edge: Gender Inequity in the Restaurant Industry*.
- 7 ACS, 2012. Calculations by ROC-United.
- 8 Ibid.
- 9 Ibid.
- 10 Wage and Hour Division, Department of Labor (DOL). 2014. *Minimum Wages for Tipped Employees*.
- 11 Ibid.
- 12 DOL. 2011. *The Fair Labor Standards Act of 1938*.
- 13 Ibid.
- 14 Allegretto, S., and K. Filion. 2011. *Waiting for Change: The \$2.13 Federal Subminimum Wage*. Economic Policy Institute & Center on Wage and Employment Dynamics Briefing Paper #297.
- 15 Liddle, A. (1996, June 24) "Associations urge Senate to retain wage provisions." *Nation's Restaurant News*.
- 16 Lynn, M. (2006, January 1). "Tipping in Restaurants and Around the Globe: An Interdisciplinary Review." *Cornell University, School of Hotel Administration Collection*.
- 17 Ibid.
- 18 Allegretto, S. 2013. *Waiting for Change*.
- 19 Evans, J. (March 1, 2014). "A record-setting wage and hour settlement." *Zanesville Times Recorder*.
- 20 ACS, 2012. Calculations by ROC-United.
- 21 Ibid.
- 22 Ibid.
- 23 Ibid.
- 24 ROC-United, 2012. *Tipped Over The Edge*.
- 25 Ibid.
- 26 Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Employment Statistics*, 2012.
- 27 Bendick, M., R. Eanni, and S. Jayaraman. 2009. "Race-Ethnic Employment Discrimination in Upscale Restaurants: Evidence from Paired Comparison Testing." *The Social Science Journal*. Vol. 39, Issue 10: 895-911.
- 28 ACS, 2012. Calculations by ROC-United.
- 29 Ibid.
- 30 Current Population Survey (CPS), 2013. Calculations by ROC-United based on King et al., *Integrated Public Use Microdata Series, Current Population Survey: Version 3.0* [Machine-readable database]. Minneapolis, MN: Minnesota Population Center, 2010.
- 31 ACS, 2012. Calculations by ROC-United.
- 32 Ibid.
- 33 Ibid.
- 34 National Restaurant Association, 2014. *2014 Restaurant Industry Forecast*.
- 35 Ibid.
- 36 Ibid.
- 37 Aaronson, D. & E. French. 2006. *Output Prices and the Minimum Wage*. Employment Policies Institute.
- 38 National Restaurant Association, 2012-2014. *2012-2014 Restaurant Industry Forecast*.
- 39 ACS, 2009-2012. Calculations by ROC-United
- 40 Batt, R., J.E. Lee, and T. Lakhani, 2014. *A National Study of Human Resource Practices, Turnover, and Customer Service in the Restaurant Industry*. Restaurant Opportunities Centers United.

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