

# *Minimum Wage Basics: Overview of the Tipped Minimum Wage*

*NELP's Minimum Wage Basics series sheds light on key issues related to the minimum wage, drawing on the latest research and campaign developments.*

## **Introduction**

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Many Americans are unaware that in most states, there is a subminimum wage specifically for tipped workers. Under federal law, workers can be classified as a tipped worker if he or she receives at least \$30 per month in tips. Since 1991, the federal minimum wage has risen five times, but for tipped workers it has remained frozen at just \$2.13 an hour—a rate now less than 30 percent of the full minimum wage.<sup>1</sup>

Currently, an estimated 4.3 million people work in predominantly tipped occupations in the United States.<sup>2</sup> Restaurant workers make up the majority of them, but many other professions are represented, including car wash workers, nail salon workers, valet parkers, and airport attendants, just to name a few. Women constitute two-thirds of all workers in predominantly tipped occupations—a fact that many feel makes the subminimum tipped wage a form of legislated pay inequity.

Worker advocates, including the AFL-CIO, Restaurant Opportunities Center United, the Economic Policy Institute, the National Employment Law Project, and others, have called for the gradual elimination of the subminimum tipped wage to improve the economic outcomes of tipped workers and advance fairness. This fact sheet, which relies significantly on a comprehensive [report](#) by the University of California's Sylvia Allegretto and the Economic Policy Institute's David Cooper, serves as a primer on the tipped minimum wage and what it would mean to eliminate it.

## **The Tipped Minimum Wage Hasn't Always Existed— And Is Not Universal Today**

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Until 1966, there was no federal subminimum wage for tipped workers.<sup>3</sup> With the 1966 expansion of the Fair Labor Standards Act (FLSA) to cover hotel, motel, restaurant, and other employees that had previously been excluded, the Act was amended to allow employers to pay tipped workers a subminimum wage set at 50 percent of the full minimum wage.<sup>4</sup> In 1980, Congress raised the tipped minimum wage to 60 percent of the full minimum wage, but returned it to 50 percent in 1991.<sup>5</sup>



## The Complex Tipped Wage System Fosters Widespread Noncompliance with the Law

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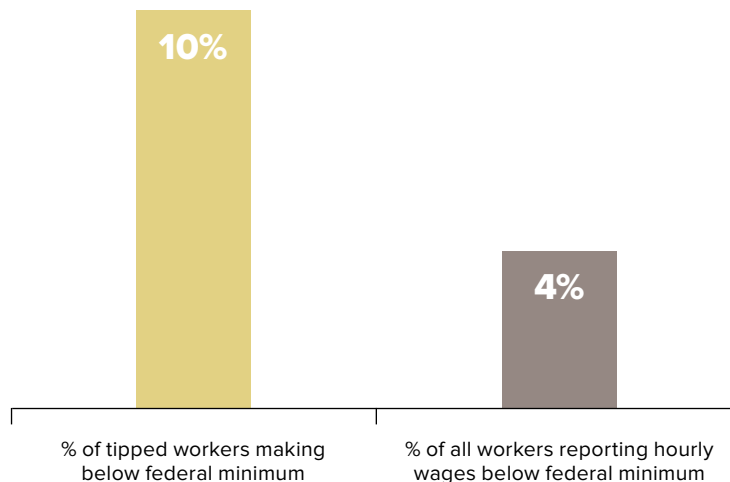
Employers are required to make up the difference if a worker’s base wage plus tips does not add up to the full minimum wage. But this complex system is both difficult to comply with and largely unenforceable for a number of reasons:

1. It requires extensive tracking and accounting of tip flows, which is burdensome and difficult for employers.
2. Employers are allowed to average tips over the course of the entire work-week and required to “top up” only if an employee’s average hourly earnings are less than the full minimum wage.
3. Tips are allowed to be pooled among various types of restaurant employees, allowing a portion of the tips that a server receives to legitimately be reallocated to other employees.
4. Tipped workers that have experienced tip-stealing or other forms of wage theft are often reluctant to demand what they are owed out of fear of reprisal. Many tipped workers are reliant on their supervisors to schedule them for shifts, and make more or less in tips depending on which shifts they are given.

A 2014 report by the White House National Economic Council and the U.S. Department of Labor—the nation’s top wage enforcer—confirms these challenges: “The rules for tipped workers are complicated and can be confusing for employers and employees alike. One of the most prevalent violations is the failure to keep track of employee tips and therefore the failure to ‘top up’ employees if their tips fall short of the full minimum wage.”<sup>9</sup>

The 2014 report, subtitled, “The Importance of Ensuring a Robust Tipped Minimum Wage,” summarized that in practice, the requirement that employers “top up” wages if tips run short “is difficult to enforce. When surveyed, more than 1 in 10 workers in predominantly tipped occupations report hourly wages below the full Federal minimum wage, including tips. (By comparison, just 4 percent of all workers report hourly wages below the minimum wage.)”<sup>10</sup>

**Percent of workers making below federal minimum wage**



Compliance and enforcement challenges aside, even though employers are required to make up the difference between tips and the statutory minimum wage, it remains the case that customers are directly responsible for paying a portion of workers' wages under this system. Thus, rather than a gratuity for good service, the existence of a subminimum tipped wage renders tips a customer-funded wage replacement that lowers labor costs for employers in a few select industries.

## Tipped Workers Defy Common Stereotypes

Who are tipped workers? Among the predominantly tipped occupations, servers (waiters and bartenders) account for a large share of the workforce but not all of it: 58 percent.<sup>11</sup> Other types of tipped workers include bussers, runners, bar-backs, bellhops, parking attendants, nail salon workers, car washers, airport service workers, and food delivery people.

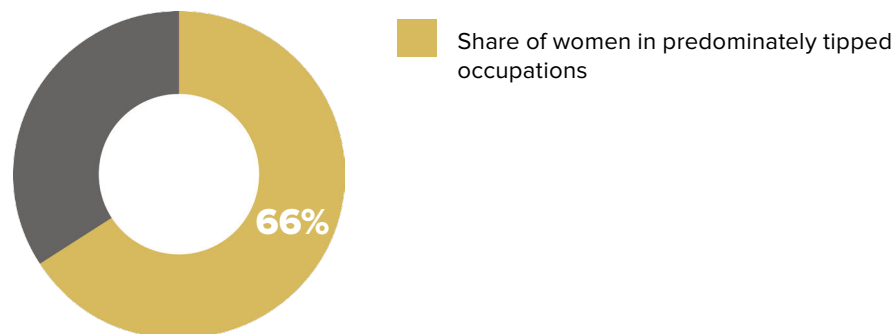
A significant number of tipped workers are in occupations that are not predominantly tipped, but earn enough money each month in tips to be treated as tipped workers by their employers and be paid the subminimum tipped wage. These occupations include some in which generous tips are not widely thought of as customary. For example, wheelchair attendants at airports are often treated as tipped workers, but under the Air Carrier Access Act are prohibited from informing customers that they work for tips.<sup>12</sup>

Demographically, tipped workers are older and more educated than commonly perceived, and often support families on their tips:

- Over 87 percent of workers in predominantly tipped occupations are adults age 20 or older, and nearly 63 percent are 25 or older.<sup>13</sup>
- Nearly 52 percent of workers in predominantly tipped occupations have had some amount of higher education.<sup>14</sup>
- Many workers in predominantly tipped occupations support families: over 25 percent—and over 30 percent of female workers in such occupations—are parents.<sup>15</sup>

Women make up two-thirds of all workers in predominantly tipped occupations.<sup>16</sup> Over 61 percent of workers in predominantly tipped occupations are white, nearly 18 percent are Latino, and over 8 percent are African American.<sup>17</sup>

### Women make up two-thirds of all workers in predominantly tipped occupations



## Tipped Workers Face Significant Economic Insecurity

Tipped work is inherently uneven and often unpredictable. While most of us expect to be paid the same for every day or hour we work, servers may make a substantial amount of money on Friday or Saturday nights but much less on other days of the week. As one worker explained, “Nobody likes to work Sunday morning or Monday—but someone has to do it. When that’s my time, I know I’m not going to make any money. Working Friday night is like working five Sunday mornings.”<sup>18</sup>

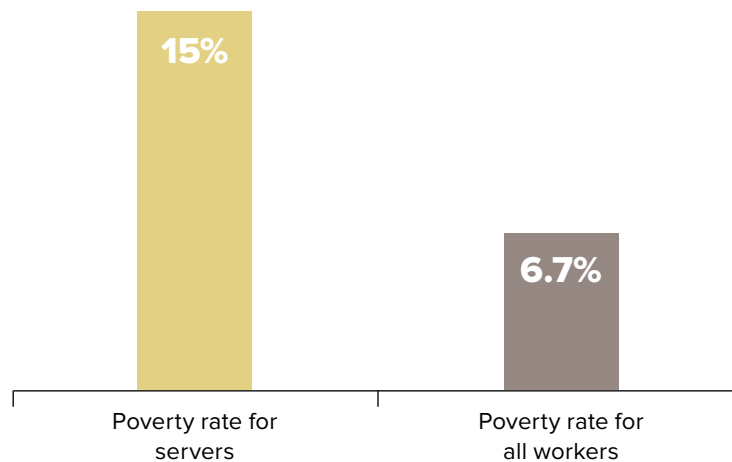
In addition, bad weather, a bad economy, the changing of the seasons, and a host of other factors can cause sudden drops in tipped income and lead to economic insecurity.

While the restaurant industry claims a median wage among servers of \$16 to \$22 an hour based on industry-funded surveys, these claims have never been substantiated, and the industry has not made its methodology or data public. According to analyses of government data, the median wage for servers—base wage plus tips—is \$10.11 per hour (a yearly income of \$21,029 if someone works full time with no vacation), and only \$9.89 for female servers (\$20,571 yearly income). The median wage for all workers is \$16.48.<sup>19</sup>

It’s no surprise, then, that 46 percent of workers in predominantly tipped occupations depend on public assistance from the federal government—well over the rate of 35.9 percent for all workers.<sup>20</sup>

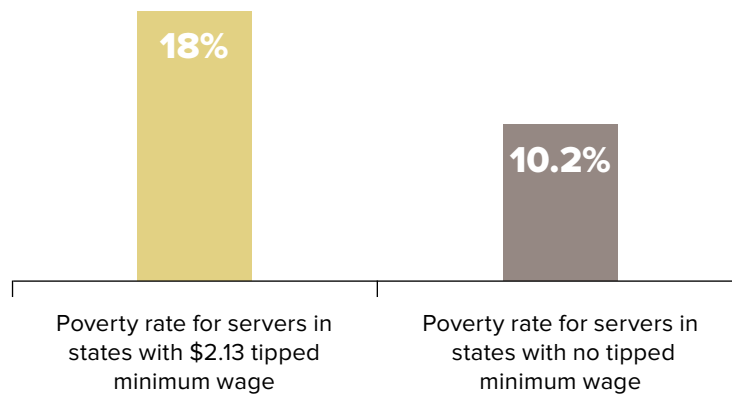
Median hourly wages for workers in predominantly tipped occupations—again, including tips—are nearly 40 percent lower than overall median hourly wages.<sup>21</sup> As a consequence of these low wages, 12.8 percent of workers in predominantly tipped occupations live in poverty, and nearly 15 percent of restaurant servers live in poverty.<sup>22</sup> Servers experience poverty at well over twice the rate of the overall U.S. workforce.<sup>23</sup>

### Servers experience poverty at twice the rate of the overall U.S. workforce



Poverty rates are even higher in states where tipped workers are paid the federal minimum of \$2.13: over 14 percent for workers in predominantly tipped occupations, and 18 percent for servers.<sup>24</sup> By contrast, in states with no subminimum tipped wage (i.e., where tipped workers are paid the same wage as other workers), poverty rates among workers in predominantly tipped occupations are about one-quarter lower: 10.8 percent versus 14.5 percent.<sup>25</sup> For servers, the numbers are even more dramatic: 10.2 percent of servers in states with no subminimum tipped wage live in poverty, while in states with a \$2.13 minimum, the figure is 18 percent.<sup>26</sup>

## Servers experience poverty at a higher rate in states with a subminimum wage



### Higher Wages for Tipped Workers Are Consistent With a Strong Economy and Restaurant Industry

Each time a raise in the tipped minimum wage is proposed, business groups, in particular the restaurant industry, argue that it would cause economic harm, but no serious observer believes that restaurant industry job growth is affected in any significant way by how low or high a state keeps its tipped minimum wage.

The experience of states that require tipped workers to receive the same minimum wage as everyone else confirms this. According to the National Restaurant Association's own projections, cumulative restaurant employment in the seven states without a subminimum tipped wage will grow by 11.2 percent in the next 10 years—barely distinguishable from the 12.3 percent growth rate projected for the nation as a whole.<sup>27</sup>

Moreover, many of the top growth states for restaurant jobs have some of the highest tipped wages and minimum wages in the country:

- In 2015, the National Restaurant Association expects Nevada to rank fifth among the 50 states in restaurant employment growth, Oregon to rank ninth, and Washington to rank twelfth.<sup>28</sup> None of these states has a subminimum tipped wage, and Washington and Oregon have the highest state minimum wages in the country.
- Arizona, Florida and Colorado—which rank third, sixth, and eighth in projected restaurant job growth<sup>29</sup>—are all states that for a decade have been gradually phasing up their tipped wage rates each year. These states' steadily rising tipped minimum wages have gone hand in hand with some of the nation's top growth rates for restaurant jobs.

Restaurant sales data paint a similar picture. Of the 10 states that the National Restaurant Association projects will experience the highest growth in restaurant sales in 2015, three have no subminimum tipped wage (California, Nevada, and Montana), and four others have tipped minimum wages that are above 60 percent of the state's full minimum wage (Florida, Colorado, North Dakota, and Arizona).<sup>30</sup>

Indeed, there is a substantial business case for higher wages in the restaurant industry:

- Higher wages lead to lower turnover: a survey of more than 1,000 restaurant employers found that higher wages cut turnover in half,<sup>31</sup> which in turn reduces recruitment and training costs.

- When workers are more secure financially and on the job longer, they can be more productive and effective employees: long-tenured, happier employees tend to serve customers better.
- Putting more money directly into the pockets of workers who are struggling financially boosts spending in local economies, including at restaurants.

## Conclusion

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From the experience of states like California, Nevada, and Washington that set the same minimum pay for tipped and non-tipped workers alike, we know that eliminating the tipped minimum wage will likely have a dramatic impact on the economic security of hard-working and vulnerable tipped workers, including millions of women struggling to feed themselves and their children on precarious and unpredictable income. We also know from the restaurant industry’s own data in these states that claims of economic harm to business are erroneous—and, in fact, that higher wages can benefit the restaurant industry by lowering turnover, improving service, and stimulating the economy.

The fact that the restaurant industry in cities from San Diego and Reno to Minneapolis and Anchorage has been thriving and growing while paying workers the full minimum wage provides a roadmap for phasing out the tipped subminimum wage nationwide.

We look forward to a day when all states and the federal government regard tips truly as a reward for good service rather than as a substitute for a decent wage. The impact on the lives of millions of workers, most of them women, would be profound, and a giant leap forward for fairness.

## Notes

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1. This loophole for employers in tipped industry, the difference between the tipped minimum wage and the full minimum wage, is known as a “tip credit;” employers are not required to pay this amount to a worker if her tips meet or exceed its value.
2. 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, <http://www.epi.org/publication/waiting-for-change-tipped-minimum-wage/>
3. William G. Whitaker, *The Tip Credit Provisions of the Fair Labor Standards Act*, Congressional Research Service, March 2006, p. 2-3.
4. Whitaker (2006), p. 4.
5. Whitaker (2006), p. 5-6.
6. Whitaker (2006), p. 6.
7. Hawaii currently allows employers to take a 50 cent tip credit on employers who earn more than \$14.75 an hour in wages plus tips. In 2016, the credit will rise to 75 cents, and the minimum threshold will rise to \$15.50 an hour in wage plus tips. Ultimately, the threshold will rise to \$17.10 in 2018. See <http://labor.hawaii.gov/wsd/files/2014/06/Tip-Credit-Notice-with-exhibits-June-2014.pdf>
8. Author’s calculations based on US census data: <http://www.census.gov/popest/data/state/totals/2014/index.html>.
9. *The Impact of Raising the Minimum Wage on Women and the Importance of Ensuring a Robust Tipped Minimum Wage*, White House National Economic Council, Council of Economic Advisors, and Domestic Policy Council and US Department of Labor, March 2014, p. 7. Report available at: <http://www.whitehouse.gov/sites/default/files/docs/20140325minimumwageandwomenreportfinal.pdf>.
10. White House Report, p. 6.
11. Allegretto and Cooper (2014), p. 7.
12. See for example Sixel, L.M., “IAH Workers Say Heat is On to Report Phony Tips,” *Houston Chronicle*, August 21, 2011, <http://www.chron.com/business/article/IAH-employees-claim-pressure-is-on-to-report-2135060.php>

13. Allegretto and Cooper (2014), p. 10.
14. Allegretto and Cooper (2014), p. 10.
15. Allegretto and Cooper (2014), p. 10.
16. Allegretto and Cooper (2014), p. 10.
17. Allegretto and Cooper (2014), p. 10.
18. Rajesh D. Nayak and Paul K. Sonn “Restoring the Minimum Wage for America’s Tipped Workers,” National Employment Law Project, August 2009, [http://nelp.3cdn.net/f6df4ed353601d4c50\\_x6m6iy650.pdf](http://nelp.3cdn.net/f6df4ed353601d4c50_x6m6iy650.pdf)
19. Allegretto and Cooper (2014), p. 12.
20. Allegretto and Cooper (2014), p. 16.
21. Author’s calculations using data in Allegretto and Cooper (2014), p. 12.
22. Allegretto and Cooper (2014), p. 14.
23. Author’s calculations using data in Allegretto and Cooper (2014), p. 14.
24. Allegretto and Cooper (2014), p. 14.
25. Author’s calculations using data in Allegretto and Cooper (2014), p. 15.
26. Allegretto and Cooper (2014), p. 15.
27. Author’s calculations using data in 2015 Restaurant Industry Forecast, National Restaurant Association, p. 24.
28. 2015 Restaurant Industry Forecast, p. 9.
29. 2015 Restaurant Industry Forecast, p. 9.
30. 2015 Restaurant Industry Forecast, p. 9.
31. Batt, R., J.E. Lee, and T. Lakhani, A National Study of Human Resource Practices, Turnover, and Customer Service in the Restaurant Industry, Restaurant Opportunities Center United, 2014.