

# Brief

FROM THE NORTH CAROLINA JUSTICE CENTER

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## TIPPING THE SCALES TOWARD FAIR WAGES:

### The \$2.13 Subminimum Wage Reduces the Value of Hard Work in the Food Service Industry

The restaurant industry is growing in North Carolina. Despite job losses throughout the Great Recession and the economic recovery, food-service occupations are projected to have one of the highest growth rates in North Carolina over the next ten years.<sup>1</sup> The potential to achieve financial stability and upward economic mobility, however, remains slim for workers in the food industry. The occupations associated with food service are among the lowest-paid in North Carolina and offer few employment benefits such as health insurance and paid sick days.

The 340,000 North Carolina workers who prepare and serve our food work for some of the state's lowest wages (**Figure 1**). The average hourly wage of a worker in food services is \$9.66, which translates to only \$20,100 per year.<sup>2</sup> Pay scales vary from higher paid chefs and head cooks to the lowest paid fast food workers.<sup>3</sup> Waiters and waitresses, who make up the largest group of tipped workers, fall definitively on the bottom end of this pay spectrum at an average hourly wage of \$9.23 per hour.<sup>4</sup>

**FIGURE 1: The average hourly wage in food service occupations is among the lowest in the state.**

OCCUPATION	AVERAGE HOURLY WAGE (2010)	AVERAGE ANNUAL WAGE (2010)
Installation, Maintenance, and Repair	\$ 19.57	\$ 40,690.00
Community and Social Service Occupations	\$ 18.72	\$ 38,930.00
Protective Services	\$ 16.65	\$ 34,630.00
Construction and Extraction	\$ 16.61	\$ 34,540.00
Sales and Related Occupations	\$ 16.56	\$ 34,440.00
Office and Administrative Support	\$ 15.30	\$ 31,830.00
Production Occupations	\$ 14.94	\$ 31,080.00
Transportation and Material Moving Occupations	\$ 14.38	\$ 29,910.00
Healthcare Support Occupations	\$ 11.59	\$ 24,100.00
Personal Care and Service Occupations	\$ 11.09	\$ 23,070.00
Building and Grounds Cleaning and Maintenance	\$ 10.89	\$ 22,660.00
<b>Food Service and Serving Related Occupations</b>	<b>\$ 9.66</b>	<b>\$ 20,100.00</b>

SOURCE: Bureau of Labor Statistics, Occupational Employment and Wage Estimates for North Carolina, 2010 (selected occupations with a mean average hourly wage under \$20).

## The Subminimum Wage: Substandard for North Carolina's Workers

The current federal and North Carolina tipped minimum wage is \$2.13 per hour. The rationale behind this "subminimum wage" is that workers earn tips to bring them up to the binding state and federal

minimum wage of \$7.25 per hour.<sup>8</sup> North Carolina mirrors the federal policy as a full-tip credit state, meaning that employers can pay workers the lowest subminimum wage of \$2.13 per hour as long as that wage plus tips is equal to \$7.25 per hour over the course of the workweek.

Over time, the gap between the subminimum wage and general minimum wage has increased. When the federal subminimum wage was enacted in 1966, employers were required to pay at least half of the federal minimum wage.<sup>9</sup> Currently, workers are expected to make up more than two-thirds of their hourly pay through tips. This offers employers of tipped workers an advantage over other employers who must pay at least the full minimum wage. In addition, the requirement that employers cover the difference between the tipped minimum wage and the general minimum wage is difficult to enforce, resulting in underpayment, a form of wage theft.<sup>10</sup> ROC-United found that more than one in ten restaurant workers surveyed reported employers misappropriated their tips.<sup>11</sup>

Wage theft and the misappropriation of tips on top of the decreased value of the tipped minimum wage create a pay

*As the Restaurant Opportunities Center (ROC-United) notes in its report on gender inequity in the restaurant industry, women are over-represented both in food-services occupations and within many the lowest-paid tiers of this industry.<sup>5</sup> In North Carolina, almost 60 percent of workers in the food-service industry are women, yet only 18 percent are chefs and head cooks, the highest-paying food-service positions.<sup>6</sup> On the other end of the spectrum, three out of four waitstaff are women and nine out of ten hosts, receiving an average of \$8.56 per hour, are women.<sup>7</sup>*

### NC TIPPED WORKERS BY THE NUMBERS

Median wages for tipped workers:	<b>\$10.54</b>
Median wages for non-tipped workers:	<b>\$15.61*</b>
All tipped workers living at or below the federal poverty level:	<b>27 percent</b>
Waiters and waitresses living at or below the federal poverty level:	<b>33 percent**</b>
Percentage of tipped workers who are women:	<b>79 percent</b>
Percentage of waiters and waitresses who are women:	<b>78 percent***</b>

\*Median wages in 2011 dollars. Source: Economic Policy Institute Analysis of 2009-2011 Current Population Survey. Note: Sample restricted to workers employed in the preceding 12 months over the age of 16 who reported positive wage and salary income.

\*\* Source: Economic Policy Institute Analysis of 2008-2010 American Communities Survey. Note: Sample restricted to workers employed in the preceding 12 months over the age of 16 who reported positive wage and salary income.

\*\*\*Ibid.

disparity between tipped workers and the general workforce. In North Carolina, tipped workers make an average of \$10.54 per hour whereas non-tipped workers make an average of almost \$5 more. One in four tipped workers lives at or below the federal poverty line, and for waiters and waitresses this number is closer to one in three.<sup>12</sup>

## The Lack of Paid Sick Days Is a Cost to Workers and to Public Health

Low wages are only part of what keeps restaurant workers from achieving economic security. Employment benefits are rare in the industry. Survey research by ROC-United found that nine out of ten restaurant workers surveyed lacked both paid sick days and health insurance.<sup>13</sup> In North Carolina, four out of five workers in food-service occupations lack paid sick days (**Figure 2**).<sup>14</sup> This is especially problematic for women, who often have greater caregiving responsibilities than men.

Without any state or federal law requiring employers to provide paid sick days, taking time off to recover from illness or to care for a sick child may mean losing a day's pay -- no trivial matter for low-

**FIGURE 2: Four out of five workers in North Carolina's food-service occupations lack access to paid sick days.**

OCCUPATION	PERCENT WITHOUT PAID SICK DAYS	NUMBER WITHOUT PAID SICK DAYS
Community and Social Service Occupations	28.1	14,109
Installation, Maintenance, and Repair	40.8	50,670
Construction and Extraction	79.0	125,701
Office and Administrative Support	35.9	154,790
Healthcare Support Occupations	46.9	45,461
Sales and Related Occupations	49.1	184,922
Production Occupations	50.7	147,079
Transportation and Material Moving Occupations	55.0	110,913
Protective Services	58.6	10,329
Building and Grounds Cleaning and Maintenance	61.3	65,282
Personal Care and Service Occupations	76.7	52,835
<b>Food Preparation and Serving Related Occupations</b>	<b>82.3</b>	<b>154,578</b>

SOURCE: Institute for Women's Policy Research analysis of 2009-2010 National Health Interview Survey (NHIS) and 2009 American Community Survey.

income workers who may be living paycheck to paycheck. Missing 3.5 days of work can cost a family consisting of two full-time workers with an average wage of \$10/per hour \$280, an amount equal to a family's entire monthly food budget.<sup>15</sup> In addition to lost wages, workers without paid sick days face the risk of job loss when they stay home to recover from illness. In a recent survey, 23 percent of workers said they have lost a job or were told they would lose a job for taking time off to handle a personal or family illness.<sup>16</sup>

When food-service workers lack paid sick days, they are more likely to go to work sick, and the result is a cost not only to workers and their families but also to public health. In a recent study of restaurant

workers, 63 percent of respondents stated they cooked and served food while sick.<sup>17</sup> Another nine-state survey of food workers and their managers found that 12 percent of restaurant workers worked two or more shifts while experiencing vomiting and diarrhea.<sup>18</sup>

## Raising Workplace Standards for Restaurant Workers

In a society where more than half of the population eats at a restaurant at least once per week, the men and women who work hard to cook and serve prepared food deserve to be able to feed their own families.<sup>19</sup> There are concrete policy solutions to address the undervaluing of restaurant work. Raising and indexing the subminimum wage for tipped workers to at least 70 percent of the minimum wage would begin to address the erosion of the low wage's purchasing power and help workers achieve economic security.<sup>20</sup> Allowing workers to earn job-protected paid sick days would allow

workers to recover from their own illnesses, take care of their sick family members, and protect our communities from illness.<sup>21</sup> Finally, enforcing protections to ensure that workers are paid for all hours worked and making sure that all workers have access to basic wage laws are policies that reinforce the value of work, help struggling families, and accelerate the economic recovery.

- 1 Food preparation and serving-related occupations experienced a -5.8 percent change in employment from 2007 to 2010. See Sirota, Alexandra Forter, 2011. Making Ends Meet after the Great Recession: The 2010 Living Income Standard for North Carolina: North Carolina Justice Center. The Commission on Workforce Development's State of the Workforce Report estimates that food prep and serving workers (SOC 35-201) will add approximately 21,607 jobs over the next ten years. N.C. Commission of Workforce Development, June 2011.
- 2 Bureau of Labor Statistics, Occupational Employment and Wage Estimates for North Carolina, 2010 (SOC 35-000). Annual wage is calculated by multiplying the hourly mean wage by 2,080 hours.
- 3 Ibid.
- 4 Ibid.
- 5 Restaurant Opportunities Center United, February 13, 2012. Tipped over the Edge: Gender Inequity in the Restaurant Industry.
- 6 Economic Policy Institute analysis of 2008-2010 American Community Survey. Note: Sample restricted to workers employed in the preceding 12 months over the age of 16 who reported positive wage & salary income.
- 7 Ibid. Bureau of Labor Statistics, Occupational Employment and Wage Estimates for North Carolina, 2010 (SOC 35-000).
- 8 For a full history of the subminimum wage, see Allegretto, Sylvia and Kai Filion, 2011. Waiting for Change: The \$2.13 Federal Subminimum Wage, Economic Policy Institute and Center on Wage and Employment Dynamics.
- 9 Ibid citing Elder, Peyton, 1978. The 1977 Amendments to the Federal Minimum Wage Law. Monthly Labor Review, Vol. 101, No. 1, pp. 9-10.
- 10 See Bernhardt, Annette, et al. 2009. Broken Laws, Unprotected Workers. National Employment Law Project (NELP).
- 11 ROC-United, 2011. Behind the Kitchen Door. For example, tips were shared with non-tipped workers or withheld for illegal deductions.
- 12 Economic Policy Institute analysis of 2008-2010 American Community Survey. Note: Sample restricted to workers employed in the preceding 12 months over the age of 16 who reported positive wage & salary income.
- 13 ROC-United, 2011. Behind the Kitchen Door.
- 14 Institute for Women's Policy Research analysis of 2009-2010 National Health Interview Survey (NHIS) and 2009 American Community.
- 15 Gould, Elise, Kai Filion, and Andrew Green. June 2011. The Need for Paid Sick Days: Economic Policy Institute Briefing Paper, Economic Policy Institute. For families headed by single parents earning \$10/hour, losing three days of work in a month can cause the family to fall beneath the federal poverty level.
- 16 Smith, Tom W. and Jibum Kim at NORC. June 2010. Paid Sick Days: Attitudes and Experiences, Public Welfare Foundation.
- 17 Restaurant Opportunities Center United. September 2010. Serving While Sick: High Risks and Low Benefits for the Nation's Restaurant Workforce and their Impact on the Consumer.
- 18 Sumner, Steven et al. 2011. Factors Associated with Food Workers Working while Experiencing Vomiting or Diarrhea, Journal of Food Protection.
- 19 Restaurant Opportunities Center United, February 13, 2012. Tipped over the Edge: Gender Inequity in the Restaurant Industry citing Rasmussen Reports, National Survey of 1000 Adults, July 21-22, 2011.
- 20 Tipped minimum wage laws have been shown to have a measurable impact on tipped workers' wages. The Economic Policy Institute, for instance, found that tipped workers in states with the lowest tipped minimum wage, like North Carolina, earn a lower median wage (\$9.31) than those workers in states where the tipped minimum wage is equal to the regular minimum wage (\$10.81).
- 21 For more detailed policy recommendations see, ROC-United, 2012. Tipped over the Edge: Gender Inequity in the Restaurant Industry.