

OP-ED CONTRIBUTOR

# The Tipped Minimum Wage is the problem, not tips.

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Two years ago, Danny Meyer, founder of Shake Shack, unwittingly sparked what would become an ongoing debate about the future of tipping in the United States. His company, Union Square Hospitality Group, instituted a “no-tipping model” in their restaurants and elected to pay their employees the state minimum wage to put an end to what he thought was the root of injustice in the restaurant industry. The no-tipping model received backlash from some waitresses and waiters, as it eliminates their ability to make more than the state minimum wage. However, those who support the no-tipping model that Meyer adopted, believe that the act of tipping comes from a racially oppressive history and presents a long list of moral issues, such as wage inequality, racial discrimination, and sexual harassment. While both arguments present valid points, a solution cannot be determined when the focus on which is the superior model is not the problem. The tipped minimum wage is the problem-not tips.

The standard minimum wage law, whether it is set by the Federal government or the State, applies to employees who do not receive tips as part of their compensation. A tipped wage is a base pay that is less than the state minimum wage paid to an employee that makes a large portion of their salary from tips. For example, a salesperson at Forever 21 in Arkansas makes the state minimum wage of \$9.25 per hour. However, a waitress at The Cheesecake Factory in the same state makes a tipped minimum wage of \$2.62 per hour and relies on her customers to make up the difference. Eliminating the tipped minimum wage would allow tipped workers to receive the state minimum wage in addition to their tips.

Some states adhere to the federal minimum wage rate for tipped employees. Other states set their own minimum wage for tipped employees and further mandate that a “tip credit” be added to their pay if the total amount does not meet their state minimum wage rate for non-tipped employees (tip credit minimum wage). Seven states, referred to as equal treatment states, make no distinction between tipped and non-tipped employees. The tipped employees are allowed to accept tips and receive the state minimum wage rate. In a study reported in the Economic Policy Institute, researchers concluded that employees in equal treatment states earn an average of 17% (including both tips and base pay) more per hour than their counterparts in states that solely receive the federal minimum wage. As a result, there are better working and living conditions for workers in equal treatment regions.

Preserving a lower minimum wage for tipped workers negatively affects women and minority groups who suffer the most from wage inequality. Not only does it create inconsistent income, but it also ensures that women of color get paid 40% less than their male coworkers. Restaurant Opportunities Centers United, an organization that works to ensure restaurant employees can be financially independent, calculates that [African-American female servers] earn only 60 percent of what male servers are paid, costing those women more than \$400,000 over a lifetime.”

Besides the wage gap, there are additional issues of sexual harassment that women must deal with as “nearly 37 percent of all sexual harassment claims to the Equal Employment Opportunity Commission come from restaurants.” This is an alarming number of women working for tips that have to deal with overzealous customers who make sexual comments or engage in inappropriate behavior.

A *New York Times* article “The Tipping Equation” features true stories of how men and women have been harassed by customers and details how much they tolerate earning their tip. This is what 21-year-old server in Phenix City, Alabama Emmallie Heard had to say:

There was a guy, he was like, “Hey, can I get your number?” And then he was asking where I live, how old I am, what school I go to, a lot of personal questions that I didn’t want him to ask. I breezed by it. You can’t just say, “No, don’t talk to me that way,” or else you won’t get a tip. Afterward, he had the tip money in his hand — he was like, “So you gonna give me your number?”

In Alabama, Emmallie gets paid the federal tipped minimum wage (\$2.13) without the assurance of “tip credit”. She is dependent on tips, so essentially customers pay her bills. Therefore, she can’t do anything to upset them, even if it means sacrificing her boundaries of what is appropriate behavior. Servers should not have to analyze how much disrespect is worth their ability to pay rent that month. By contrast, in an equal treatment state like California, Emmallie would no longer have to ignore inappropriate questions or laugh off date proposals, rather she is free to push back against harassment. Her manager is also able to deal with the problem more effectively and ask the abusive customer to leave, no longer worrying about Emmallie losing out on her tip. The elimination of a minimum wage rate for tipped employees, while allowing them to still accept tips, will provide servers like Emmallie with a consistent livable wage and give them some protection from racism and harassment in the industry.

Although it is proven that take-home pay is higher in equal treatment states, many servers worry that eliminating the tipped minimum wage would force restaurants to raise costs, which would cause people to tip less, or restaurants to lay off workers to offset extra labor costs. Joshua Chaisson, a member of the Restaurant Workers of America, an organization that promotes the preservation of tipped wages, advocates for tip credit minimum wage. He argues that “tip credit allows employers to keep their labor costs low and allows [servers] to make a great living.” Despite his concerns, Saru Jayaraman’s op-ed “Why tipping is wrong,” explains that restaurants in equal treatment states “have higher sales per capita, as well as higher restaurant job growth; some even have higher rates of tipping by customers.” In fact, the restaurant industry in these states are thriving. A report published in 2013 by the Center for Economic Policy and Research found that restaurants are “typically able to absorb additional labor costs” by reducing turnover costs, increasing productivity, and modestly increasing menu prices. Likewise, employment grew

13.2 percent in equal treatment states compared to 9.1 percent in other states. Based on this report, eliminating the tipped minimum wage would not be harmful to the restaurant or its employees.

There are many opinions about eliminating tipping, but little discussion about eliminating the tipped minimum wage. The tipped minimum wage creates a harmful dependency on tips that perpetuates racial and gender inequalities in the workplace. The conversation needs to be shifted to the real issue at hand, which is whether or not to eliminate or reform the minimum wage law for tipped employees. By making every state an equal treatment state, customers maintain the ability to reward good service and servers have more control over their working and living conditions.