

Committee of the Whole, Bill 22-913, Tipped Wage Workers Fairness Amendment Act of 2018

Testimony of Eric Atilano, Ward 4 Resident

Good afternoon,

My name's Eric Atilano and I'm a Ward 4 resident, a civil rights lawyer and I manage an EEO office charged with preventing discrimination, sexual harassment and retaliation. I'm also a staunch labor and workers rights supporter. For these reasons, and many others, I'm deeply troubled by the effort to repeal Initiative 77.

Some argue that 77 should be repealed because the Restaurant Industry, including owners and some very vocal tipped workers don't support it. But 77 is a pro-worker law and therefore it shouldn't surprise anyone that it's facing the same opposition that virtually every pro-worker law has ever faced – often times from the very same workers those laws are intended to protect because of scare tactics and fear-mongering from their bosses. The Equal Pay Act was opposed by many women because they believed, based on fear mongering by their employers that they'd be worse off if the law passed because costs for employers would rise. It was the same when OSHA passed health and safety regulations; several workers opposed these safety measures for the same reasons. And the same is true in virtually every effort to unionize a workforce.

Passing the EPA, OSHA and similar laws wasn't easy, or even applauded by many of the people most impacted by those laws. Fortunately, there were workers, citizens and elected officials with courage, foresight, integrity, a strong moral compass and the ability to think beyond their own self-interests to pass and uphold these laws. We're not asking you to champion this movement, we're simply asking you to uphold the vote that so many female workers fought for and won.

As an expert on sexual harassment and retaliation, I know that when victims speak, we must listen. And if for some reason that doesn't persuade you, DOL and EEOC studies show that sexual harassment and retaliation in the restaurant industry is rampant because of the power differential and pressures created by the tipped wage system. I've met numerous courageous women who've fought for this law only to be harassed by their co-workers, bosses and the entire restaurant industry. I can only imagine the trauma and disappointment they felt when they learned the Council moved to repeal 77.

Many argue that 77 will hurt restaurant owners, but a financial burden, which we all know the market will correct for, is nothing compared to the pain and suffering these brave women have endured under the tipped system for too long. Rather than continue to subsidize the industry on the backs of workers, I believe you're capable of bold and creative ways to help the industry thrive. Perhaps through commercial rent control or subsidizing energy efficient initiatives. Repealing a law that protects women, lifts people of color out of poverty and has been proven to work in other states is short-sighted and wrong, and I ask that you follow your moral compass and vote to keep 77 in place.



TESTIMONY BEFORE THE COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
SEPTEMBER 17, 2018  
BILL NO. 22-913, TIPPED WORKERS FAIRNESS AMENDMENT ACT OF 2018

Chairman Mendelson and members of the D.C. Council. My name is Daniel A. Katz and I am a Senior Counsel at the Washington Lawyers' Committee for Civil Rights and Urban Affairs. For some fifty years, the Washington Lawyers' Committee has labored to defend the rights of working people, and to address the issues of poverty, racism, and other forms of discrimination. Among these efforts are our workers' rights clinics, which each month assist over 100 low-wage District of Columbia workers who face wage theft, discrimination on the job, illegal terminations, and employers who otherwise do not comply with legal protections.

Proposition 77, which over an eight-year period will raise the minimum wage for tipped employees so that it equals the minimum wage for all employees, helps address the stark disparity in wages between tipped employees and other employees. We urge you to reject the attempt to repeal it.

One minimum wage for all workers has been the law in seven states – Nevada, California, Alaska, Montana, Minnesota, Washington and Oregon – and as of September 5, 2018, they were joined by Michigan. One minimum wage has been the law in San Francisco and Seattle, and recently became law in Flagstaff, AZ. Contrary to the assertions of the opponents, the restaurant industry in those states and cities continues to flourish, employment in those industries continues to grow, and, raising the minimum wages of tipped employees helps close the wage gap between tipped employees and those whose livelihood is not dependent on receiving tips.

Moreover, and vitally important to the residents of the District of Columbia, the gradual increase in the minimum wage for tipped workers will help to alleviate the stark racial and gender disparities among tipped workers. Racial disparities in wages, income, and wealth severely impact people of color in the District. According to studies produced by the District of Columbia Fiscal Policy Institute, the median household income for Black District residents is approximately one-third of that for white residents, and for Latino families, approximately one-half of that of white residents. Similarly, the median wage for white residents is nearly double that of Black and Latino residents. And the wealth gap – which measures savings, assets and debt – is even starker. The median wealth of white families is over twenty times that of Black or Latino families.<sup>1, 2</sup>

We urge the Council to view this attempt to eliminate the potential gains for tipped workers in the context of racially and gender-based income, wage and wealth gaps. Stated succinctly, raising the tipped worker minimum wage is a step towards equity for thousands of workers of color and women who are tipped employees.

The majority of tipped work is low-wage work. The median annual wage for non-tipped employees in the District of Columbia is \$69,462. Meanwhile, the median annual wage for tipped employees, including their tips, is 34% of that figure, or \$23,798.00.<sup>3, 4</sup>

As a result of these low wages, tipped employees experience poverty at a much higher rate than their non-tipped colleagues. Tipped employees in the District of Columbia have a poverty rate of 13.7%, which is more than three times the 4.5% poverty rate for non-tipped employees. Approximately 70% of tipped employees in the District of Columbia have incomes that are so low that they qualify for Medicaid or subsidized health insurance. Only one-third of non-tipped employees qualify for these public benefits.<sup>5, 6</sup>

Racial and gender differences exacerbate the income disparities between tipped and non-tipped workers in the District of Columbia.

Including tips received, the median Black tipped worker earns, on average, 29% less per hour than her white counterpart. Including tips received, the median Hispanic tipped worker earns approximately 18% less per hour than her white counterpart. Similarly, poverty rates for tipped workers vary by race or ethnicity. For example, nearly one in five Black tipped workers, compared to 12% of white tipped workers, live in poverty.<sup>7</sup>

The gender gap is similarly disturbing. On average, tipped male workers earn 20% more annually than tipped female workers. Studies by the Economic Policy Institute and other experts demonstrate that a much higher portion of female than male tipped workers are single heads of households, who, because of their family responsibilities, work less hours. Because of childcare and other family responsibilities, these workers are not in the position to negotiate their schedules to maximize earnings. Low wages and less-than-full-time work directly contribute to child and family poverty. Studies indicate that two-thirds of children who live in poverty live with at least one adult who is working.<sup>8, 9</sup>

What do these figures tell us?

It's evident – raising the tipped minimum wage will raise the wages for thousands of workers of color and women, and help reduce poverty and the racial and gender income gap

Contrary to the assertions of the opposition, one fair minimum wage has not negatively impacted employment in the restaurant industry. According to the National Restaurant Association – the industry trade group – the restaurant industry in every one of the states with one fair minimum wage is slated for strong employment growth over the next 10 years – with the lowest growth projected in Montana at 7.7%, and the highest in Nevada at 15.9%. Only Montana's projected 7.7% employment growth is lower than the District's projected 8.8% growth in restaurant employment.<sup>10</sup>

In addition, economic studies indicate that tipped workers in the states that do not allow a sub-minimum wage for tipped employees, earn, on average, 15% more than employees in states that permit a sub-minimum wage. This statistic indicates that, contrary to Proposition 77 opponents, customers do not reduce their tips simply because their servers are receiving a higher minimum

wage.<sup>11</sup>

The experience of the restaurant industry in San Francisco and Seattle – two cities with one fair minimum wage – similarly demonstrates that raising the minimum wage for tipped employees is not detrimental to the industry. Since 2010, the period during which the minimum wage for all workers in those cities increased to \$15/hour, full-service restaurant employment increased by 3.2% in San Francisco and by 3.5% in Seattle. This compares favorably with the 4% increase in the District. Meanwhile, wage increases for restaurant workers in those two cities outpaced the wage growth in the District.<sup>12</sup>

What do these figures tell us?

It's evident – increasing the minimum wage received by tipped workers has not negatively affected the growth of the restaurant industry.

Increasing the minimum wage for tipped workers will help narrow the wage and income gaps suffered by workers of color and women. It will help District of Columbia families who too often are in poverty because their bread winners are low wage tipped employees.<sup>13</sup> It is good public policy, and we urge you to reject any attempt to repeal Initiative 77.

Thank you.

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<sup>1</sup> “Economic Inequality in DC Reflects Disparities in Income, Wages, Wealth an Economic Mobility,” District of Columbia Fiscal Policy Institute, August 2018  
<https://www.dcfpi.org/all/economic-inequality-in-dc-reflects-disparities-in-income-wages-wealth-and-economic-mobility-policy-solutions-should-too/>

<sup>2</sup> “Why D.C. Should Implement Initiative 77,” Economic Policy Institute, September 2018  
<https://www.epi.org/publication/tipped-workers-do-better-in-cities-where-they-are-paid-the-regular-minimum-wage-and-the-restaurant-industry-continues-to-thrive-why-dc-should-implement-initiative-77/>

<sup>3</sup> “Economic Inequality in DC Reflects Disparities in Income, Wages, Wealth an Economic Mobility,” District of Columbia Fiscal Policy Institute, August 2018  
<https://www.dcfpi.org/all/economic-inequality-in-dc-reflects-disparities-in-income-wages-wealth-and-economic-mobility-policy-solutions-should-too/>

<sup>4</sup> “Why D.C. Should Implement Initiative 77,” Economic Policy Institute, September 2018  
<https://www.epi.org/publication/tipped-workers-do-better-in-cities-where-they-are-paid-the-regular-minimum-wage-and-the-restaurant-industry-continues-to-thrive-why-dc-should-implement-initiative-77/>

<sup>5</sup> “Economic Inequality in DC Reflects Disparities in Income, Wages, Wealth an Economic Mobility,” District of Columbia Fiscal Policy Institute, August 2018  
<https://www.dcfpi.org/all/economic-inequality-in-dc-reflects-disparities-in-income-wages-wealth-and-economic-mobility-policy-solutions-should-too/>

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<sup>6</sup> “Why D.C. Should Implement Initiative 77,” Economic Policy Institute, September 2018  
<https://www.epi.org/publication/tipped-workers-do-better-in-cities-where-they-are-paid-the-regular-minimum-wage-and-the-restaurant-industry-continues-to-thrive-why-dc-should-implement-initiative-77/>

<sup>7</sup> “Why D.C. Should Implement Initiative 77,” Economic Policy Institute, September 2018  
<https://www.epi.org/publication/tipped-workers-do-better-in-cities-where-they-are-paid-the-regular-minimum-wage-and-the-restaurant-industry-continues-to-thrive-why-dc-should-implement-initiative-77/>

<sup>8</sup> “Economic Inequality in DC Reflects Disparities in Income, Wages, Wealth and Economic Mobility,” District of Columbia Fiscal Policy Institute, August 2018  
<https://www.dcfpi.org/all/economic-inequality-in-dc-reflects-disparities-in-income-wages-wealth-and-economic-mobility-policy-solutions-should-too/>

<sup>9</sup> “Children, Young Adults Stuck in Poverty – Census Data Shows Millions Left Behind,” Center for Law and Social Policy (CLASP), September 2018.  
[https://www.clasp.org/sites/default/files/publications/2018/09/2018\\_censusdatabrief.pdf](https://www.clasp.org/sites/default/files/publications/2018/09/2018_censusdatabrief.pdf)

<sup>10</sup> “News & Research, State Statistics,” National Restaurant Association, September 2018  
<https://www.restaurant.org/News-Research/Research/State-Statistics>

<sup>11</sup> “Valentine’s Day is Better on the West Coast – At Least for Restaurant Servers,” Economic Policy Institute, February 2017  
<https://www.epi.org/blog/valentines-day-is-better-on-the-west-coast-at-least-for-restaurant-servers/>

<sup>12</sup> “The New Wave of Local Minimum Wage Policies: Evidence from Six Cities,” Institute for Research on Labor and Employment, University of California at Berkeley, September 2018  
<http://irle.berkeley.edu/files/2018/09/The-New-Wave-of-Local-Minimum-Wage-Policies.pdf>

<sup>13</sup> “Restaurants Can Continue to Thrive Under Initiative 77,” District of Columbia Fiscal Policy Institute, August 2018  
<https://www.dcfpi.org/all/restaurants-can-continue-to-thrive-under-initiative-77/>