



THE SKY IS NOT FALLING; THE FLOOR IS RISING

Voices of Workers,
Employers and
Consumers One Year
Following the Passage
of DC's Initiative 82

NOVEMBER 8, 2023



ONE FAIR WAGE
HIGH ROAD RESTAURANTS
NATIONAL CONSUMERS' LEAGUE

INTRODUCTION

This report marks the one-year anniversary of the passage of Initiative 82 (I-82) in Washington, DC. I-82 proposed raising the minimum wage for tipped workers from a subminimum wage of just \$5.35 per hour to the full minimum wage plus tips over 5 years, and for it to continue to rise, along with the full minimum wage, with inflation.¹ After just two small wage increases in 2023, the National Restaurant Association has been telling workers in other states that the restaurant industry is failing, jobs are being lost, and workers' tips have decreased in the District.² This report includes the voices of workers, employers, and consumers on their experiences one year after the passage of I-82, and includes the only government data on restaurant employment impacts currently available in the short period since implementation of the wage increase began.



KEY FINDINGS

I-82 passed on November 8, 2022. It is too early to conduct a full analysis of the impact of I-82, since the first step under this law took place only 6 months ago, in May 2023. However, a comparison of data on restaurant employment, business licenses, and earnings from November 2022 until mid-2023 can give us a glimpse of the current state of the industry and help us spot some initial trends. Since November 2022 in Washington, DC:

1. US Department of Labor Bureau of Labor Statistics data show that restaurant jobs have increased by 6.8 percent.
2. The number of establishments receiving required pre-operational health and sanitation inspections by the District of Columbia - a measure of how many restaurant establishments are seeking to serve food in the District - has increased by 10.7 percent; and
3. Restaurant worker earnings including wages and tips as measured by Square, a credit card processing company, have increased by 5.48 percent. This growth rate is higher than the 3.55 percent increase in base wages alone over the same period - demonstrating that tips have not declined.

While we do not claim these increases are the result of I-82, this data directly contradicts claims that I-82 has negatively impacted restaurant establishment growth, job growth, or

worker earnings, including tips. In addition, this report outlines how the initial confusion over service charges has been addressed by the District of Columbia’s Attorney General reaching an agreement with the Restaurant Association of Metropolitan Washington over guidance on transparent language employers must use when adding service charges. Workers, employers, and consumers profiled in this report agree: one year after the passage of I-82, the sky has not fallen for the District’s restaurant industry.

BACKGROUND

A direct legacy of slavery, the subminimum wage for tipped workers has been a source of economic instability and sexual harassment for generations.³ With the pandemic, these conditions worsened; a majority of tipped workers reported in surveys that tips decreased and harassment increased. As a result, 1.2 million workers left the industry, and in response, One Fair Wage tracked thousands of restaurants posting on Indeed.com that they were offering more than the required subminimum wage for tipped workers.⁴

As a result of this upheaval, in 2021 One Fair Wage re-initiated a ballot initiative that had been previously passed and overturned in Washington, DC to require all employers to pay the full minimum wage with tips on top.⁵ The resulting I-82 passed by nearly 75 percent the next year, on November 8, 2022. The initiative’s implementation began on May 1, 2023, when the subminimum wage increased from \$5.35 per hour to \$6.00, and an additional increase on July 1 from \$6.00 per hour to \$8.00.⁶



ONE YEAR LATER

While many establishments that are required to pay more to their workers have claimed the policy is negatively affecting the restaurant industry, economists analyzing the impact of minimum wage increases over the last three decades have repeatedly found that these policies raise the wages and earnings of affected workers without affecting employment. In addition, One Fair Wage has found no evidence of economic hardship to the restaurant industry from increased wages.

Researchers at Cornell University School of Hotel Administration looked at two decades of wage increases and found no evidence the restaurant industry was harmed by wage increases.⁷ This research came after the Center for Economic and Policy Research conducted a meta-analysis of dozens of studies on the effect of minimum wage increases to employment that found “no discernible effect” on employment.⁸ Additional research has also found that tipped workers in fair wage states are less likely to live in poverty than their counterparts in subminimum wage states.⁹ One Fair Wage has also found workers across the income distribution in fair wage states such

as California, have higher earnings – that include tips – than tipped workers in subminimum wage states.¹⁰

Research on raising restaurant workers’ minimum wages not only consistently finds that it doesn’t kill jobs but also finds a direct connection to wage gains. According to analysis by the Economic Policy Institute and the National Employment Law Project, a federal \$17 minimum wage that eliminated the subminimum wage for tipped workers would mean that “more than half (58.7 percent) of restaurant workers would see their earnings rise.”¹¹

It is too early to conduct a full analysis of the impact of I-82, since the first step under this law took place only 6 months ago, in May 2023. However, a comparison of data on restau-

rant employment, business licenses, and tipping rates comparing year-over-year differences between November 2023 and November 2022 can give us a glimpse of the current state of the industry and help us spot some initial trends.

This data suggests that there is no discernible change in the trajectory of employment growth or the number of restaurant establishments since the passage of I-82. In fact, both the number of restaurants and the number of workers in the industry are higher today than when voters passed I-82.

While we do not claim this steady growth is the result of I-82, the absence of evidence indicating a decline in employment suggests that claims the industry has been harmed in the District of Columbia are at best unfounded, and at worst could be a deliberate attempt to falsely undermine worker gains.



1 | RESTAURANT EMPLOYMENT

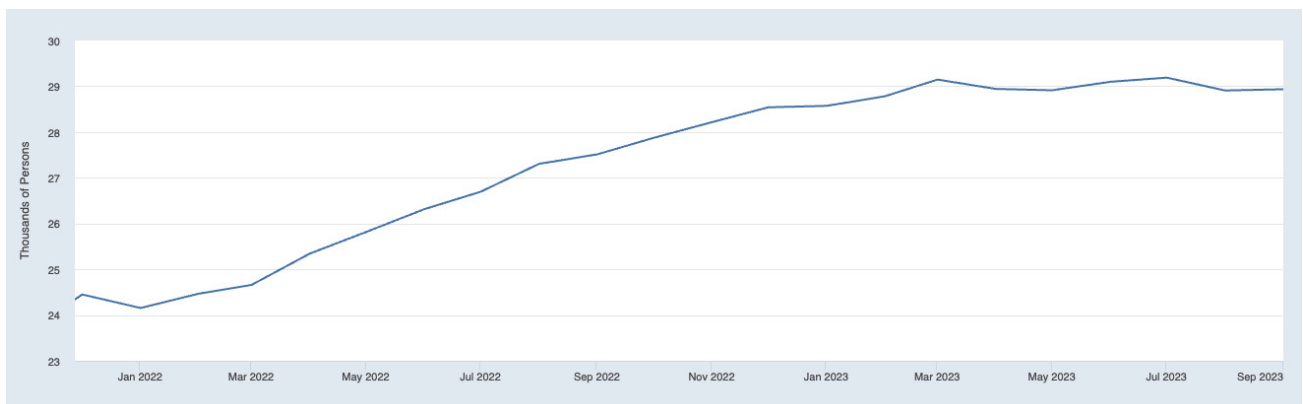
Three-month averages of restaurant industry jobs in Washington, DC show a steady increase in jobs throughout 2022 and 2023. Table 1 below shows employment gains in Q1-Q3 2022, compared to the same quarters in 2023. Overall, restaurant employment grew by 6.8 percent between Q3 2022 and Q3 2023.

TABLE 1
Restaurant Employment 3 Month Averages in Washington, DC Quarters 1-3, 2022 and 2023

2022	2023	Annual Change	Percent change
Q1 24,420	Q1 28,830	+4,410	18%
Q2 25,820	Q2 28,980	+3,160	12%
Q3 27,166	Q3 29,000	+1,834	6.8%

Source: U.S. Bureau of Labor Statistics and Federal Reserve Bank of St. Louis, All Employees: Leisure and Hospitality: Full-Service Restaurants in District of Columbia [SMU11000007072251101SA], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/SMU11000007072251101SA>, October 30, 2023.

FIGURE 1
Restaurant Employment in Washington, DC January 2022 through September 2023



Source: U.S. Bureau of Labor Statistics and Federal Reserve Bank of St. Louis, All Employees: Leisure and Hospitality: Full-Service Restaurants in District of Columbia [SMU11000007072251101SA], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/SMU11000007072251101SA>, October 30, 2023.

2 | RESTAURANT ESTABLISHMENTS

In order to identify more recent establishment data, One Fair Wage compared the number of restaurant establishments where the District government conducted required pre-operational health and sanitation inspections from November 1, 2021, through October 31, 2022, compared to the number of establishments receiving required inspections over the following 12 months (November 1, 2022, through October 31, 2023). The first number is an indicator of the number of establishments seeking to serve food, since they can't operate without receiving this inspection, and thus is more readily available data than the number of licensed establishments in the District. In using this indicator, One Fair Wage followed the lead of the District of Columbia's Attorney General's office, which used

a similar methodology to identify a full list of establishments in the District in seeking to enforce consumer protection laws following the passage of I-82.

One Fair Wage found that the District of Columbia had conducted pre-operational inspections of 1,131 restaurant establishments over the first year period prior to the passage of I-82, and 1,252 restaurant establishment inspections from November 1, 2022, through October 31, 2023 — an increase of 10.7 percent even after the first two steps of wage increase occurring as a result of I-82.¹² This increase, while not a direct reflection of the number of establishments in the District, closely mirrors the annual increase in establishments seen in US Department of Labor Bureau of Labor Statistics data, once again pointing to the lack of evidence that the industry has been in decline since wage increases began in May 2023.

The US Department of Labor has tracked the number of establishments in Washington, DC through Quarter 1, 2023. While this data reflects the state of the industry before the first step of the Initiative was put into effect, it reveals that prior tipped wage increases under the District's 2016 minimum wage law — which raised the minimum wage to \$15 an hour and the subminimum wage for tipped workers to \$5 an hour by 2020, with inflation adjustments thereafter — did not have a negative impact on the number of restaurants either.

TABLE 2

Number of Washington, DC
Restaurant Establishments 2020-2023

Year	Quarter	Number of Establishments
2020	1	2,551
2020	2	2,489
2020	3	2,496
2020	4	2,495
2021	1	2,457
2021	2	2,474
2021	3	2,488
2021	4	2,495
2022	1	2,486
2022	2	2,477
2022	3	2,522
2022	4	2,537
2023	1	2,549

Source: US Department of Labor, Bureau of Labor Statistics, Food Services and Drinking Places (NAICS 722)

3 | TIPPING

For years prior to the passage of I-82, the National Restaurant Association told workers that their tips would decrease if they were paid a full minimum wage with tips on top, which they propagated through the PAC Save Our Tips.¹³ They shared this information despite the fact that, in the 7 states that have required a full minimum wage with tips on top for decades (California, Oregon, Washington, Nevada, Minnesota, Montana and Alaska), tipping rates have been the same or higher as the 43 states with a subminimum wage for tipped workers.¹⁴

After the passage of I-82, the Restaurant Association of Metropolitan Washington, (RAMW) convened its members in informational webinars and encouraged them to switch from tips, which are the sole property of workers, to service charges, which are the property of owners.¹⁵ They encouraged DC restaurants to use a portion of the service charge (paid by customers in lieu of a tip) to cover the cost of the I-82 wage increase. Thus, after attempting to scare tipped workers into opposing their own wage increases by telling them that their tips would disappear if I-82 was adopted, the restaurant association effectively encouraged restaurants to take their workers’ tips away. Yet, these attempts do not appear to have worked in getting customers to stop tipping.

If tips had decreased following the implementation of I-82, one would expect to see workers’ earnings that included tips decline, or at the very least increase at a lower percentage year-over-year than the base pay they receive from their employer. Instead, the latest data from Square – a platform that processes credit card payments – has seen DC worker’s

TABLE 3
Square Payroll Index Metropolitan Table annual average earners and base pay for restaurant workers in Washington, DC compared to national and non-metropolitan national average.

	AVERAGE HOURLY EARNINGS			BASE WAGE			ANNUAL GROWTH	
	Bottom 10%	Median	Top 10%	Bottom 10%	Median	Top 10%	Earnings	Wages
National Average	\$12.53	\$17.67	\$28.10	\$9.85	\$13.80	\$20.59	5.02%	4.59%
Non-Metropolitan	\$9.98	\$15.39	\$26.30	\$8.00	\$12.02	\$18.50	5.59%	4.78%
Washington, DC	\$13.00	\$17.25	\$27.76	\$8.50	\$15.00	\$20.82	5.48%	3.55%

Average hourly earnings is the sum of regular wages, overtime wages, and tips divided by the sum of hours an employee worked in a given pay period. Base wage only includes regular wages. Earnings are pre-tax and before other deductions. Growth is the median of the year-over-year percent change in average hourly earnings and wages computed at the individual level using linked payroll records. The growth values shown reflect the three-month moving average: the average of the current month median earnings and wage growth and the medians for the prior two months. The bottom and top 10% correspond to the 10th and 90th percentiles.

Source: Square Payroll Index (Oct. 2023)

total earnings rise even faster than their increase in base pay since last year – with base pay rising 3.55 percent and total earnings, which include tips, increasing by 5.48 percent year-over-year for October 2023.¹⁶

The restaurant association did not anticipate that DC customers would react negatively to the deceptive attempt to use service charges to subsidize their labor costs rather than passing the charge on to workers as a tip. Customers angrily blacklisted restaurants using service charges on Reddit pages and in community forums.¹⁷ The DC Attorney General

also issued warnings to restaurants that the use of a service charge without a clear explanation to consumers of how the service charge was being used – to cover labor costs or as a tip – violated DC consumer law.¹⁸ Finally, after much debate, the DC Attorney General and the Restaurant Association of Metropolitan Washington reached an agreement and issued a joint press statement stating that all DC restaurants would be required to clearly disclose to consumers (such as on the menu) how exactly they were using the service charges – to cover labor costs or passed on to workers like a tip.

With this clarity, workers report that DC consumers continue to tip, with or without service charges – as reflected both in the increase in overall earnings, including tips as described above, and in testimonies by workers, employers, and consumers.



4 | LOCAL PERSPECTIVES ON THE PASSAGE OF INITIATIVE 82 ONE YEAR LATER

Ifeoma Ezimako

Ifeoma Ezimako is a former restaurant worker who joined One Fair Wage and was the face of the I-82 campaign. Ezimako started in the industry when she was in high school, serving at a diner near her home at the age of 15. She explained that after that “In college, I was working in different restaurants in D.C. I even did bartending and barbacking. I was laid off during the pandemic when I was barbacking at a bar in DC.”

Ezimako enjoyed working in the restaurant industry. “The best part of being in this industry is being able to serve people, putting a smile on somebody’s face.” She added that “the hard parts about it are when you get irritable customers” and some could even be “belligerent,” “drunk,” and even “a little too handsy.” The downsides of the industry were heightened after COVID: “During the pandemic, they asked more of you. Everybody is already uptight during the pandemic, I’m already not supposed to be this close to you, and you’re trying to get closer to me, being a little bit too much. I pushed through because at that time I was working for a [subminimum] wage plus tips, so I knew I had to.”

In DC, Ezimako dealt with being shortchanged by employers. “Only during my last job in D.C. was I ever told that my tips had to bring me up to minimum wage, and if it doesn’t, they’re supposed to cover it.” During that last job, one of the barbacks asked her to take part in a survey for One Fair Wage which led to her joining the organization.

Ezimako became a leader in One Fair Wage and the face of the I-82 campaign. She explains that “there were many hard parts to passing I-82” and “there was a lot of history in D.C. and a lot of people who’ve been part of the fight at different stages.” Looking back on that overwhelming victory, Ezimako stated that “getting to talk to everybody in D.C. was a great experience. This just shows how important it is to get people actually informed about the issue — once they are, they’re always in its favor.”

After the Initiative passed, workers have been telling Ezimako of just how positive the change has been: “Post I-82, a lot of my friends turned into bartenders after the wage increase. Before I don’t think they would have. From what I’ve been hearing from workers, a lot of people are coming back to the restaurant industry.”

Like many workers in the area, Ezimako lives in Maryland and is now fighting for Maryland to follow DC in passing One Fair Wage. “To all the service workers in Maryland - I want

to say spread the word, spread the word, follow us, stay informed, tell people, come out to hearings and join One Fair Wage!”

Ezimako explained: “I feel like I’m walking in my purpose, to help people where I’ve been, to educate people to know their rights, what’s even going on, and how we’re trying to change the narrative and the system, even the history of it all. It’s definitely a blessing to have the opportunity to be in this position to know all of that and to pay it forward.”

Trupti Patel

Trupti Patel is a tipped worker in Washington, D.C., and does not mince words when calling out falsehoods: “The apocalyptic prediction of doom and misery was completely manufactured by operators and fearful workers. In fact, workers have enjoyed getting a pay bump. They’re happier at work. They feel more appreciated by their employers and patrons.”

She has even found that employers are paying above the mandated tipped wage: “A lot of employers gave slight pay increases, and are paying above the subminimum wage which is currently \$8 an hour [before tips]. My current employer pays tipped workers \$10 an hour [before tips].”

Trupti explains that she has not seen a decline in restaurant business since the passage of I-82. “This year has seen a sense of return of confidence with consumers in being able to safely patronize restaurants, however, workers are still hesitant to come back due to the impact of bullying and harassment from working during COVID.”

As for her own experience with tips “Yes, people are still tipping servers. My tips have stayed stable, no change.”

Sally Greenberg

Sally Greenberg is a former tipped worker and the CEO of the National Consumers League. Sally shared her experiences as a tipped worker, a consumer, and a representative of consumers of DC restaurants.

Greenberg has experience with living on a subminimum wage and tips. “Many people who go out to dinner on a regular occasion to higher-end restaurants think that 15-20 percent is a standard tip. But this is absolutely untrue from my personal experience. There were many occasions I was left 5-10 percent, oftentimes a very low tip and sometimes no tip at all. It opened my eyes to the vulnerabilities of those who wait tables.”

When it came to the pay structure, Greenberg told One Fair Wage “I was never told at any point in any of these jobs that the wage would be made whole by the employer if my tips did not rise to the level of a minimum wage. In fact, on the contrary, the operating attitude was that if you’re not getting tips, it’s your fault. I never realized that this was the law until I started working in my current position and working with the One Fair Wage coalition, that the responsibility was for the employer to get the employee up to minimum wage. I didn’t know this as a consumer either and I’d venture to guess that the vast majority of consumers don’t know that servers are living off tips.”



Greenberg had many experiences as a tipped worker: “Another personal experience from my time as a server at IHOP – that was the belly of the beast. You’re running around for a long period of time, on your feet. Tips are pretty minimal. People don’t come to spend a lot of money, they come to eat pancakes. If a customer complains about food, the assumption is that it gets recooked. But chefs do not like to be told that customers don’t like the food and want it cooked differently. If you don’t have a strong manager or owner, it gets taken out on the waitstaff. I experienced the wrath of the kitchen staff. The manager was nasty. We had chefs throwing things at us, being told to take a hike. So you take a lot of abuse.”

Greenberg added “We’re not talking about making lots of money. We’re talking about minimum wage. Tips are not making anyone rich. So tips as an incentive for good service is really at the margins. It should exist for that extra or bonus, but not for the base wage.”

While Greenberg is no longer a tipped worker, she still enjoys going out to eat in DC: “Over the weekend, I ate at a restaurant in D.C. and the bill had a 20 percent service charge. The restaurant had a written card explaining that not all of it goes to servers.”

Greenberg helped advocate for the requirement that employers clarify how service charges are being used, which was finally established in an agreement between the DC Attorney General and the Restaurant Association of Metropolitan Washington. Greenberg explained why she advocated for this clarity: “Service charges create so much room for confusion. I would like to see on receipts that all service charges go to servers so that they aren’t at the mercy of tips, and that we’re paying them minimum wage. Having a full fair wage, knowing that a service charge all of it goes to workers, it’s much easier for consumers, instead of them having to go through all these hoops and calculations.”

Greenberg doesn’t find restaurants to have emptied out since the voters raised wages for workers. “I do my share of going out to eat out in D.C. I can say one thing: the restaurants are packed. I-82 has clearly helped the industry – there’s usually a line to get in, and there’s no drop off in any patronage to the restaurants I frequent. I don’t see any lack of enthu-

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siasm in the places I go out to eat — I just want clarity for consumers. It’s absolutely the right thing to do to pay people a minimum wage like every other worker gets. I’m sick of customers subsidizing the restaurant industry to pay people a decent wage. I’m happy to leave a tip for good service, but the restaurants are employers and they need to do their part and pay the minimum wage — like everyone else.”

Andy Shallal

Andy Shallal is the owner of the local chain of restaurants Busboys & Poets. Shallal explained that Busboys & Poets is named after Langston Hughes, who worked as a busboy while writing poetry in the early 1900s at the Wardman Park Hotel in DC. As a Black man, he couldn’t attend a poetry conference at the hotel, but a famous white poet named Vachel Lindsay came to the hotel, and while eating, Langston slipped him some poetry at his table. The next day in the newspaper, there was a story about how Lindsay had discovered a busboy poet. “This name felt right, since the first Busboys & Poets location was in a place called the Langston Lofts.”

Shallal explained that Busboys is a restaurant and a place of community: “Busboys & Poets has a bookstore, a stage for poetry and conversations, a lounge, etc. It was meant to be many different things to many different people. A place for all kinds of people to come and express themselves and feel comfortable.”

Did Busboys and Poets have to radically change to comply with the ballot initiative? “We did nothing major” Shallal responds, noting that COVID and other economic factors were far more of a concern. “We’re going through a bit of a recession. This change [Initiative 82] didn’t make much of a difference. Technology is helping us navigate some complications and allowing us to increase our reach beyond our dining rooms. People learned to order online during COVID. At some of our locations, almost 50 percent of our sales are online. So, the changes in business are more due to COVID and the economy overall than anything else.”

In response to whether he had heard complaints from customers or staff, Shallal responded: “No. Honestly, no. I think customers still expect the same standards and quality. There has been a little bit of a disconnect with expectations from customers. We need to let people know that these changes come with a small cost. It’s not ok to pay \$5 for a hamburger — it won’t be served by healthy people. The good news is that it seems like people are willing to stretch themselves a little bit to support a sustainable economy because they understand that good food with good service comes at a price.”

When One Fair Wage asked if tips had declined at Busboys since the changes began he laughed at the suggestion stating “No, definitely not.” He added that he felt ending the subminimum wage has not hurt his business and that he thinks “it has created shifts in

the industry.” He added “For other places that were running on very thin margins, it’s going to have an impact. So, when you go to open a restaurant, you have to start with certain cost criteria. We were stuck in an archaic era where people got used to cheap food and cheap service, and that’s ending. Now people are realizing that they have a responsibility to support better wages and working conditions for service staff. No one wants the person serving them to not be able to afford to pay for their home.”

Shallal told One Fair Wage that Busboys is not only raising wages in DC, but also in Maryland and Virginia and he is seeing other establishments in the area doing the same: “It will take time to adjust. There was a lot of shakeup in the industry during COVID and a lot of people needed to rethink their role in the industry, and we lost a lot of people at that time. Now, there is a new crop of folks getting into the industry. These people seem to be viewing the work more professionally. They see that a server can make a good living, with sustainable wages, enough to feed their family and pay the rent. This is really important. Having people rely solely on tips made it feel like a throwaway profession for so long.”



CONCLUSION

One year after the passage of I-82, the restaurant industry remains intact. The number of restaurant establishments and restaurant employees in the District continues to grow, and while we do not claim that this growth has been caused by the Initiative, neither can it be claimed that restaurant jobs and establishments have been lost. The sky has not fallen; instead, the floor for tipped workers and the Washington, DC restaurant industry has risen.

ENDNOTES

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