

Tipped Workers in Montgomery County Deserve Full Wage Rights

Position Statement in Support of Bill 35-23

Most Marylanders agree that working hard should leave you and your family with enough to afford the basics. However, the tipped subminimum wage – a relic of racist New Deal-era compromises – forces thousands of workers in Montgomery County to make do with wages that cannot support a family, let alone appropriately compensate for the hard work their jobs require. **The Maryland Center on Economic Policy supports Bill 35-23** because it would put tipped workers on a path toward full minimum wage protection and boost earnings by tens of millions of dollars each year.

Bill 35-23 would raise wages for about 15,000 workers.ⁱ These workers would see an aggregate earnings increase of \$50 million per year right away, increasing to **\$150 million or more once the law is fully phased in.**ⁱⁱ

Montgomery County workers in tipped occupationsⁱⁱⁱ are primarily women and overwhelmingly workers of color:

- 65% of workers in tipped occupations in Montgomery County are women, compared to only 50% of workers in other occupations.^{iv}
- 76% of workers in tipped occupations are people of color, with Asian/Pacific Islander workers constituting the largest group (22%). Only 57% of other Montgomery County workers are people of color.
- 49% of workers in tipped occupations are women of color. Together, women and workers of color account for 92% of the county's workforce that works in occupations that generally rely on tips.

Workers in tipped occupations in Montgomery County come from all walks of life and all stages of life:

- 96% are at least 20 years old. More than half are at least 30 years old.
- 19% have a college degree and another 30% have at least some college education.
- 24% are caring for children under 18.
- 44% were born outside the United States, including 21% who are naturalized U.S. citizens.
- 84% of tipped-occupation workers in Montgomery County also live there, and 96% live in Maryland.

The subminimum wage – \$4 per hour in Montgomery County, with tips filling the hole – is not nearly enough to get by:

- Even a single adult working full-time and not caring for children would need to take home \$25.52 per hour to maintain a basic standard of living in Montgomery County, according to the Economic Policy Institute.^v

- Tipped-occupations workers in Montgomery County are **three times as likely as those in other occupations to have family income below the federal poverty line** (\$30,000 for a family of four in 2023) and twice as likely to have income less than double the poverty line.
- 26% of tipped-occupations workers **devote more than 30% of their income to housing** (the maximum amount considered affordable by the U.S. Department of Housing and Urban Development), compared to only 17% of workers in other occupations. One in eight tipped-occupations workers put more than half their income toward housing.

Bill 35-23 is a long-overdue step to repair a deep-seated local and national legacy of codified racism.^{vi} When Congress established the federal minimum wage in 1938, lawmakers specifically denied protections to workers in restaurants, hotels, and certain other service industries – one of many compromises to blunt corporate opposition and secure the support of racist southern Democrats. Congress extended partial wage protections to these workers in 1966, but still allowed employers to pay tipped workers less than the full minimum wage. The subminimum wage for tipped workers is as unjust today as it was in 1966.

Bill 35-23 would also advance gender equity in Montgomery County. Not only does the current two-tiered system hold down earnings for thousands of women, it exposes workers in tipped industries to a greater risk of sexual harassment. Because tipped workers cannot rely on a stable, decent wage, they are often at the mercy of customers for adequate pay – meaning that reporting or pushing back against mistreatment could take a bite out of a worker’s paycheck. This unjust power dynamic contributes to high rates of sexual harassment in the tip-heavy accommodation and food services industry.^{vii}

Long-Lasting Benefits

Ending the tipped subminimum wage would benefit Montgomery County families and children for decades to come. A large body of research shows that when families earn enough to afford the basics, the benefits ripple out to nearly every part of their lives. A 2013 systematic review of academic literature linked higher family incomes to:^{viii}

- Fewer families struggling to put food on the table
- Fewer underweight births and lower infant mortality
- Increased spending on children’s clothing, reading materials, and toys
- Fewer behavioral problems, less physical aggression, and less anxiety among children
- Improved academic and cognitive test results, and more years of schooling completed

Guaranteeing a consistent wage floor is the right choice for the local economy. Increased pay for low-wage workers who live paycheck to paycheck translates almost immediately into higher spending, which means stronger sales at local businesses. Evidence also shows that higher wages reduce employee turnover, which means more experienced workers and lower hiring costs. Family-supporting wages make Montgomery County a more attractive place to live and work, which means a deeper talent pool for employers to draw from.

Despite dire predictions from minimum wage opponents, a robust body of credible research shows no significant link between the minimum wage and the number of jobs available. For example, a 2019 study described as “the most important work on the minimum wage in 25 years” examined 138 state minimum wage changes between 1979 and 2014.^{ix} The study found no evidence of any reduction in the total number of jobs for low-wage workers and no evidence of reductions affecting subsets of the workforce such as workers without a college degree, workers

of color, and young workers. Similarly, a 2016 meta-analysis of 37 studies on the minimum wage published since 2000 found “no support for the proposition that the minimum wage has had an important effect on U.S. employment.”^x The verdict is in: Strong, consistent wage protections work.

“Backfilling” Requirement Provides Inadequate Protection

Proponents of the tipped subminimum wage are quick to point to the requirement that employers make up for any deficit between a tipped worker’s total pay after tips and the minimum wage, claiming that this nullifies the harm caused by the subminimum wage. This argument does not hold water:

- Enforcement of this “backfilling” provision requires workers to add their wages and tips, divide by hours worked, and proactively request reimbursement from the employer if there is a deficit. This process is complicated and cumbersome, especially for the large number of tipped workers whose hours are far from stable.
- Moreover, workers must contend with pressure from their boss – actual or suspected – to let underpayment slide. It is easy for a boss to reduce hours, deny advancement opportunities, or retaliate in other ways against a worker who insists on appropriate payment. As managers in tipped workplaces already exercise significant discretion in scheduling and other decisions, such retaliation is difficult to prove.
- The subminimum wage twists the intended purpose of tipping, often without customers’ knowledge. While customers typically leave a tip to compensate a worker for their labor or to reward a job well done, a portion of tips effectively subsidizes the employer’s choice to pay less than the standard minimum wage. **For a full-time worker, the first \$1,016 in tips for each pay period simply reduce the employer’s pay responsibilities. Customers wind up unknowingly tipping the boss.**

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Montgomery County Council adopt Bill 35-23.

Equity Impact Analysis: Bill 35-23

Bill summary

Bill 35-23 gradually phases out the subminimum wage for tipped workers in Montgomery County. Tipped workers would receive full minimum wage protection beginning in July 2028.

Background

A county ordinance enacted in 2017 raised Montgomery County’s minimum wage for employers 51 or more employees to \$15 per hour, effective July 1, 2021. The minimum wage has adjusted for inflation since 2022 and now stands at \$16.70 per hour. The minimum wage is increasing more slowly for smaller employers.

The 2017 ordinance increase the county’s subminimum wage for tipped workers from \$3.63 to \$4.00 per hour.

Equity Implications

Structural barriers built into our economy through policy have disproportionately kept Black workers, other workers of color, women, and workers in other marginalized groups out of high-paying jobs. As a result,

guaranteeing a consistent minimum wage would deliver particularly important benefits to workers in these groups.

- Bill 35-23 would raise wages for about 15,000 Montgomery County workers in July 2024, with the aggregate pay increase totaling \$50 million over 12 months.
- Once fully phased in, Bill 35-23 would raise wages by at least \$150 million per year.
- 65% of workers in tipped occupations in Montgomery County are women, compared to only 50% of workers in other occupations.
- 76% of workers in tipped occupations are people of color, with Asian/Pacific Islander workers constituting the largest group (22%). Only 57% of other Montgomery County workers are people of color.
- 49% of workers in tipped occupations are women of color. Together, women and workers of color account for 92% of the county’s workforce that works in occupations that generally rely on tips.
- A single adult working full-time and not caring for children would need to take home \$25.52 per hour to maintain a basic standard of living in Montgomery County, according to the Economic Policy Institute.
- Tipped-occupations workers in Montgomery County are three times as likely as those in other occupations to have family income below the federal poverty line (\$30,000 for a family of four in 2023) and twice as likely to have income less than double the poverty line.
- 26% of tipped-occupations workers devote more than 30% of their income to housing (the maximum amount considered affordable by the U.S. Department of Housing and Urban Development), compared to only 17% of workers in other occupations. One in eight tipped-occupations workers put more than half their income toward housing.

Impact

Bill 35-23 would likely **improve racial, gender, and economic equity** in Montgomery County.

ⁱ Economic Policy Institute Minimum Wage Simulation Model; 2015-2019 5-year ACS data pinned to 2022 CPS wage distribution. Employment scaled to match 2022 CPS labor force size. For more details see Technical Methodology by Dave Cooper, Zane Mokhiber, and Ben Zipperer, 2019, <https://www.epi.org/publication/minimum-wage-simulation-model-technical-methodology/>

ⁱⁱ This estimate is based on the current full minimum wage, \$16.70 per hour. Because the county’s full minimum wage will almost certainly be higher by 2028, the estimate understates the bill’s ultimate wage impact.

ⁱⁱⁱ Estimates in this section are based on MDCEP analysis of 2017–2021 IPUMS American Community Survey microdata. “Tipped occupations” are identified using a modified version of the definition presented in Cooper, Mokhiber, and Zipperer (2019). Because the occupation code 4060 (counter attendants, cafeteria, food concession, and coffee shop) is not available in 2017–2021 data, code 4055 was used instead. This code includes fast food workers, who typically are not paid the tipped subminimum wage. For this reason, demographic estimates in this section do not precisely match the population covered by the EPI impact estimates.

^{iv} American Community Survey data code all respondents as male or female, preventing analysis of more detailed gender groups.

^v Economic Policy Institute 2022 Family Budget Calculator, <http://www.epi.org/resources/budget/>

^{vi} “Ending a Legacy of Slavery: How Biden’s COVID Relief Plan Cures the Racist Subminimum Wage,” One Fair Wage, 2021, https://onefairwage.site/wp-content/uploads/2021/02/OFW_EndingLegacyOfSlavery-2.pdf

^{vii} Jocelyn Frye, “Not Just the Rich and Famous: The Pervasiveness of Sexual Harassment across Industries Affects All Workers,” Center for American Progress, November 2017, <https://www.americanprogress.org/issues/women/news/2017/11/20/443139/not-just-rich-famous/>; Catherine MacKinnon and Louise Fitzgerald, “The Tipping Point: How the Subminimum Wage Keeps Incomes Low and Harassment High,” One Fair Wage, 2021, https://onefairwage.site/wp-content/uploads/2021/03/OFW_TheTippingPoint_3-1.pdf

^{viii} Kerris Cooper and Kitty Stewart, “Does Money Affect Children’s Outcomes? A Systematic Review,” Joseph Rowntree Foundation, October 2013, <https://www.jrf.org.uk/sites/default/files/jrf/migrated/files/money-children-outcomes-full.pdf>
The systematic review methodology involves defining in advance how researchers will identify relevant studies, as well as quality control measures to ensure that only studies with credible methodologies are included. This methodology protects against researchers cherry-picking studies that support their viewpoint.

^{ix} Doruk Cengiz, Arindrajit Dube, Attila Lindner, and Ben Zipperer, “The Effect of Minimum Wages on Low-Wage Jobs,” *The Quarterly Journal of Economics* 134(3), 2019, <https://academic.oup.com/qje/article/134/3/1405/5484905>

^x Paul Wolfson and Dale Belman, “15 Years of Research on US Employment and the Minimum Wage,” *Labour* 33(4), 2019, <https://onlinelibrary.wiley.com/doi/abs/10.1111/labr.12162>