

Thank for convening today's board I want to take a different approach here to discuss the well tipped employee and finished with a proposal for those that are not as well tipped. As both need to be addressed in order to be fair to all.

The issue of raising the tip credit wage to increase employee's income is not the solution for thousands of already well paid tipped employees here in NYC. It will have many unintended consequences that will actually reduce jobs and also hurt these employees, here's why.

A barista making the tip credit wage and with their inclusion in the tipping pool was making approx. \$23 hr -earning approx \$40,000 a year. Because of the lack of clarity in previous wage orders and a flurry of the litigious actions against the restaurant industry, the barista was removed from the tip pool and is now paid \$13 an hr, more than the state minimum wage, basically closer to today's living wage, - now let's forget for a minute the \$8hr increase to the business, the barista has just lost \$400 a week in earnings (\$20,000 a year) because they are not in the tip pool. And while they previously employed 3 Barista's the owner to accommodate the hourly wage increase, buys new automated machines and now has 2 baristas. When was the last time you saw more than one cashier at CVS? You don't because you are on the self check-out lane. In this example everyone lost income -- the owner, the employee and even NYC and State in reduced payroll tax revenue.

Small businesses create 70% of all new jobs in this country. A tip credit wage allows restaurants to hire more employees. Currently 3 tipped employees handle a table/guest. One takes the order, another runs the food to the table and a third busses the table and All enjoy wages with tips of over \$18 to almost \$40 an hour. Taking away the tip credit wage would force those jobs to be combined into two jobs. This is done in other states with no tip credit. Here in NYC, 35 people would lose their jobs per restaurant.

If you were even to consider eliminating the tip credit all together coupled with increases to the state minimum wage at the same time, I do not know of any study that explains to me how to absorb that unprecedented an amount of an increase. Raising menu prices is not a viable option. I would be forced to cover that with a service charge to the guest and request that tipping is not required. This is a real option being considered by many in my industry right now. As with the Barista example, the tipped employees hourly wages would rise, but they also

would lose almost 50% of their gross income. Why, because many employees are tipped so well here in NYC.

This is not just a theory of mine it is a reality in the catering industry today. Many caterers now pay their staff a higher hourly wage like \$20 to \$25 an hr but they now charge their guest a 10 to 20% service charge. This is NOT a gratuity, the cater keeps the service charge and the customer is told there is no need to tip because "I pay my staff very well, more than a living wage". So now the staff makes for a 5 hour event \$125. Before this model, the servers were paid the lower hourly tip credit wage and shared in the gratuities (now called the service charge) and for a 5 hour party they used to make \$200 or more. Pretty straight forward math. (\$10,000 a year loss). The elimination of the tip credit wage would reduce their take home pay.

Obamacare, paid sick leave, expanding of the social safety net all things I believe in and I had enacted in my restaurants before they were mandated by law. I am all for employees being treated fairly and moving up the ranks, I am so proud that during the last 25 years in business my tipped employees, servers, hosts and even someone, who once worked in the coat room at the tip credit wage, have all moved into jobs, actually careers with my company and a number of them make over \$100,000 now. They all started at the state minimum wage and/or tip credit wage. The tip credit system works for many food service workers in New York..

Ok so what about those employees that are not well tipped.....

let's look at when an owner, who is a bad apple and does not follow the current law and does not make up the difference, from the tip credit wage to the state minimum wage - **why does anyone think raising the rate will now make them comply?** If someone is speeding on the highway, lowering or raising the speed limit does not stop them from speeding...**only the flashing lights in their rear view mirror of law enforcement does.**

The Labor Department needs an increase in their budget to be more diligent in enforcement. Educating the restaurant industry is extremely important, as complying with wage laws in NYS State can be legitimately confusing to all. A small restaurant owner, who does not have the resources to hire a full time HR Department has a tough time complyin. (I must digress, as I was disappointed that this wage order did not address the 80/20 issue or spread of hours, both important issues for employees to be paid properly. The lack of the clarity on

those two issues alone, years later after the last wage board, shows the need for education is relevant.) But back to my bad apple example... This owner will not be changing their ways due to an increase in the tip credit wage. They actually will be pushed further into the wrong direction and by paying their employees in cash or the old half on half off the books. A practice I do not condone, but it is a reality in many small business, not just restaurants - and that costs the state millions in unpaid sales and payroll taxes....

A reasonable compromise is the progressive tipped wage proposal made earlier today by the NYC Hospitality Alliance. This is firmly supported by our industry leaders here in NYC and I urge you to consider it.

The brightest part of NYS employment growth has come from the hospitality industry please do not stop that. Instead educate and enforce the current laws,

Raising the tip credit wage will not improve the lives of well tipped employees... it will take away and substantially lower their income and cost some of them their jobs.. The NYC Hospitality Alliance's proposal reminds us that all tipped employees do not fall into the same box. **One solution does not fit all**. Thank you for taking the time.

Jeffrey Bank

CEO, Alicart Restaurant Group 10/20/2014 Wage Board Hearing