



NEW YORK

December 4, 2014

Honorable Peter M. Rivera, Commissioner
New York State Department of Labor
W. Averell Harriman State Office Campus
Building 12, Room 509
Albany, New York 12240

Re: Hospitality Industry Wage Board

Dear Commissioner Rivera:

As directed by Governor Cuomo and pursuant to Sections 652(6) and 659.1 of Article 19 of the New York State Labor Law, you have convened a formal Wage Board to explore the economic impact of any minimum wage modification within the hospitality sector of our economy. As the State Director for the National Federation of Independent Business, I have the privilege of representing nearly 11,000 small and independent businesses across our State, including a large number within the hospitality industry. From restaurants to hotels, bars to bed and breakfast establishments, NFIB/NY broadly represents the hospitality industry as whole, but specifically the hundreds of members which would be impacted by any wage modification.

Currently in New York, the tipped minimum wage for food service workers is \$5.00 and \$5.65 for service employees, both of which are above the federal minimum tipped wage standard. These wage thresholds are not set to increase with the recent minimum wage agreement as set forth in the 2013-14 State Budget. NFIB/NY strongly opposed the minimum wage increase in the budget and also has significant concerns for small employers with this current examination.

The unique complexities that small businesses face in New York are second to none. Many of the necessary administrative requirements of owning and operating a business in this State prove to be cost prohibitive. From high energy taxes and healthcare costs to endless regulatory hurdles, the struggle to survive for small employers is real and constantly evolving.

In spite of these costly challenges, small business owners offer the most attractive and competitive salary and benefit packages to employees that they can realistically afford. They do so willingly with the understanding that quality employees will uphold the service standards necessary for their business to remain a viable success. Every new employee hired at a small business is both an investment for the future of the business and a risk, which virtually ensures that that employer will do all he or she can to attract and retain talent.

That said and underscoring again that small employers are offering the best compensation they can afford, it is important to understand that any state mandated increase in labor costs will have negative consequences for small business and jobs.

NFIB/ NY member Pete Mitchell owns Parker's Grille and Tavern in Geneva, New York. He employs 120 people, including 60 tipped employees. His payroll is approximately 1500 hours per week and tipped workers average a salary of \$22.00 per hour, which far exceeds the current standard under the General Industry Minimum Wage Act.

"Increasing the tipped minimum wage won't just affect jobs. It will affect every aspect of running my business. If the tipped wage increases \$1.00, that's \$85,000 off my bottom line. That cuts into my ability to make improvements, keep my business fresh and buy new equipment. And I can't do as many community events. I look at how much money there is and then determine what I can do." - Pete Mitchell

Put more succinctly, Chris Euripidou who owns the Farmer Boy Diner in Colonie, New York and employees 30 says, *"I can't absorb more costs. More than half my costs already are labor, and I can't go with less staff. It would hurt my business. It would put me out of business."*

Minimum wage cannot be an issue examined in a vacuum. As Chris Euripidou states, half his costs are labor. When you consider New York currently has the:

- Fourth highest electrical prices in the nation (US Energy Information Administration - 2013)
- Second highest gas tax in the nation (Tax Foundation - 2014)
- Fourth most expensive state to live in (CNBC - 2013)
- Ranks 44th in Highest Property Tax Burden (ALEC - 2014)
- Ranks 46th in Average Workers Compensation Costs (ALEC - 2014)
- Ranks 49th in Business Tax Climate (Tax Foundation - 2014)
- Ranks 49th in Individual Income Tax (Tax Foundation - 2014)
- Ranks 31st in Unemployment Insurance Tax (Tax Foundation - 2014)

Any mandated increase in labor costs will have an adverse impact. From reducing hours for employees, cutting the number of employees overall and increasing the costs of the good or service provided, small business owners will be forced to make tough decisions that every hospitality and service establishment across the state will feel.

"I've been in business for nearly 50 years. I have 10 full time employees and 5 part timers that have been with me for 18 years or longer. I pay 9 employees healthcare 100% to include co-pays and prescriptions. My insurance carrier told me to expect 13.5% increases in health care premiums next year. Plus food costs have skyrocketed—eggs for example went up 40% in one week.

With the rising cost of food and benefits, there's only so much a restaurant can afford to pay in labor increases. But minimum wage increases will create more lost jobs than anything else. I will begin to eliminate workers as soon as 12-31-2014. Shifts will be reduced. Tipped employees currently make more money than anyone in the restaurant. We are constantly under pressure, and I will be out of business if these raises continue." - Whitey Proietti, Proietti's Italian Restaurant and Catering, employs 15 people in the Rochester area

The recently enacted tax reform largely excluded small business. On top of that, small employers face increasing costs in nearly every facet of doing business. It is not uncommon for small business owners in the hospitality and service industry to report that he or she personally did not take home a paycheck on occasion due to lack of cash flow. Yet there is widespread industry concern that raising prices will lead to loss of customers.

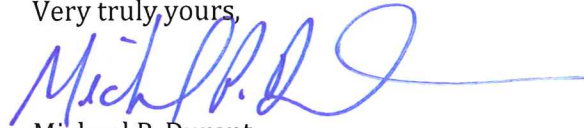
With the U.S. Bureau of Labor Statistics stating that the average waiter/waitress in New York earning \$11.00 per hour and the increasing unwillingness for hospitality establishments to increase their costs on consumers, the end result will be less hours, less jobs and less small employers.

New York's economy has rightly been the focus of Albany that last four years. The mission is far from accomplished. With economic priorities narrow in scope and costs still not reigned in, small employers will not be able to withstand another Albany mandate, especially in labor costs.

We strongly urge you and the Wage Board to consider the facts as presented and hear the real life scenarios that business owners are sharing with you. These are not hypothetical scenarios; this is reality for them, the survival of their business and their employees. A reality that New York, especially upstate, cannot endure.

Please consider this letter as our official testimony and formal opposition to any modification to the minimum wage in the hospitality industry.

Very truly yours,



Michael P. Durant

State Director, NFIB/NY

cc: Heather Briccetti, President/CEO of the NYS Business Council

Peter Ward, President of the Hotel Trade Council

Timothy Grippen, Former Broome County Executive