

July 6, 2023

Dear Member of Congress,

**We write in support of S. 781, the Tipped Employee Protection Act,** and encourage all members of Congress to cosponsor this important legislation.

The [Tipped Employee Protection Act](#) was introduced in the Senate by Senator Mike Braun (R-Ind.) and a companion bill, [H.R. 1612](#), was introduced in the House of Representatives by Congressman Steve Womack (R-Ark.).

**The bill amends the definition of “tipped employee” in the [Fair Labor Standards Act of 1938](#) to provide greater clarity and stability for these workers and their employers.** The bill would reduce regulatory uncertainty and compliance costs for businesses with tipped employees by providing clear definitions and constricting the zigzag policy changes that result from frequent executive and judicial branch reinterpretations.

The bill follows the enactment of a new [Dual Jobs final rule](#) by the Department of Labor (DOL) in 2021. The rule overturned a Trump-era rule and instituted burdensome new restrictions on employer tip credits when a tipped employee performs “non-tipped, directly supporting work” for more than 20 percent of the workweek or for any continuous period of 30 minutes.

The 2021 DOL rule created significant compliance costs for employers, who under the new standard would need to track every employee’s activities down to the minute. DOL itself admitted that the 30-minute rule would cost businesses [\\$177 million annually](#) for compliance, though that figure is likely a severe underestimate, having been calculated on the premise that each affected business would need to spend just 10 minutes per week ensuring compliance. The U.S. Court of Appeals for the Fifth Circuit acknowledged as much in an [April 2023 decision](#) reversing a lower court’s denial of an injunction on the rule, amid an ongoing lawsuit.

Tipped employees and the businesses that employ them deserve stability. [Over 4 million Americans earn income through tips](#), [about half of which](#) are employed as food service workers. The restaurant industry alone [contributes](#) more than four percent of U.S. GDP and 11 million jobs. The Tipped Employee Protection Act would reduce risks for these businesses, allow their employees to bring home more pay, and ensure that excess regulatory compliance costs are not passed down to consumers in the form of higher prices.

Tipped industries, and especially the restaurant industry, have faced enough hardship in recent years due to the economic fallout from the COVID-19 pandemic. Congress should ensure that fewer, not more, burdens are placed on these essential workers and small businesses.

**We encourage all members of Congress to cosponsor S. 781 and H.R. 1612, the Tipped Employee Protection Act.**

**Signed,**

Americans for Tax Reform

Alabama Restaurant & Hospitality Association

Alaska Cabaret, Hotel, Restaurant & Retailers Association

AMAC Action

American Consumer Institute

Americans for Prosperity

Arizona Restaurant Association

Arkansas Hospitality Association

California Restaurant Association

Colorado Restaurant Association

Connecticut Restaurant Association

Consumer Action for a Strong Economy

Delaware Restaurant Association

Digital Liberty

Florida Restaurant & Lodging Association

Freedom Foundation

Georgia Restaurant Association

Hawaii Restaurant Association

Hospitality Maine

Hospitality Minnesota

Hospitality Tennessee

Idaho Lodging & Restaurant Association

Illinois Restaurant Association

Independent Women's Voice

Indiana Chamber of Commerce

Indiana Restaurant & Lodging Association

Institute for Liberty

Institute for the American Worker

Iowa Restaurant Association

Kansas Restaurant & Hospitality Association

Kentucky Restaurant Association

Louisiana Restaurant Association

Massachusetts Restaurant Association

Michigan Restaurant & Lodging Association

Mississippi Hospitality & Restaurant Association

Missouri Restaurant Association

Montana Restaurant Association

National Restaurant Association

Nebraska Hospitality Association

Nevada Restaurant Association

New Hampshire Lodging and Restaurant Association

New Jersey Restaurant and Hospitality Association

New Jobs America

New Mexico Restaurant Association

U.S. Chamber of Commerce

New York State Restaurant Association

Utah Restaurant Association

North Carolina Restaurant & Lodging Association

Vermont Chamber of Commerce

North Dakota Hospitality Association

Virginia Restaurant, Lodging & Travel Association

Ohio Restaurant Association

West Virginia Hospitality & Travel Association

Ohioans for Tax Reform

Wisconsin Restaurant Association

Oklahoma Restaurant Association

Wyoming Lodging & Restaurant Association

Open Competition Center

Oregon Restaurant and Lodging Association

Pennsylvania Restaurant & Lodging Association

Property Rights Alliance

Puerto Rico Restaurant Association

Restaurant Association of Maryland

Restaurant Association of Metropolitan Washington

Rhode Island Hospitality Association

Shareholder Advocacy Forum

Small Business & Entrepreneurship Council

South Carolina Restaurant & Lodging Association

South Dakota Retailers Association  
Restaurant Division

Taxpayers Protection Alliance

Texas Restaurant Association