RACE TO THE BOTTOM
LOW PRICES & STOLEN WAGES IN NY'S NAIL SALON INDUSTRY

FEBRUARY 2020
WHO WE ARE

Established in 2016, the New York Nail Salon Workers Association (NYNSWA) is a membership organization of more than 800 nail salon workers uniting to re-imagine and transform the industry to one that is healthy, dignified and just. Since NYNSWA’s founding in 2016, it has educated members around wage and hour law, health and safety, unions, and immigration. NYNSWA also established the first not-for-profit nail salon school in New York in partnership with the New York Committee for Occupational Safety & Health and Adhikaar.

The New York New Jersey Regional Joint Board of Workers United is the proud union home of NYNSWA.
INTRODUCTION AND SUMMARY

In 2015, following a watershed New York Times investigation into the nail salon industry, New York State passed a historic legislative package aimed at curbing worker exploitation and abuse within the industry. While the legislation provided new protections for workers and regulations for employers, workers continue to organize to make those protections a reality. There are approximately 4,000 nail salons in New York City, and over 7,000 in the state. But despite industry growth, a high barrier to entry for nail techs to obtain their license, and expensive overhead, service prices as well as worker wages remain abysmally low.

Our survey of nail salon workers throughout the five boroughs and metro area demonstrates that New York’s nail salon industry continues to be plagued by a severe epidemic of wage theft that affects over 80 percent of this majority immigrant women workforce.

At the time of the survey, the wage system governing nail salon workers was complex, marked by differing wage rates depending on geography, number of employees, and whether or not salon owners claimed the tip credit. The tip credit allows employers to pay a lower base wage, known as the ‘subminimum’ or ‘tipped minimum’ wage, if they assure that workers make at least the standard minimum wage after factoring for tips. If workers did not earn enough in tips to make at least the minimum wage, then employers are legally required to pay the difference.

Our report finds widespread violations of both the subminimum base rate, as well as the tip credit. We found that four out of five surveyed nail salon workers experienced wage theft – and the amounts are staggering. The average loss of wages due to wage theft amounts to $181 per week, or $9,412 per year, a significant amount for a labor force of majority immigrant women low-wage workers, many of whom are the sole providers for their children.

Our research also finds a strong correlation between prices and wage theft: as service prices increase, wage theft decreases. Cheap manicures dominate NYC’s industry – 25 percent of salons charge less than $9 for a manicure, and 70 percent charge less than $12. Low prices translate into illegal poverty wages. At salons where manicures are $15 or less, workers experience an average of $123 in wage theft per week. At salons where manicures are $16 and higher, workers are paid an average of $58 more than the required minimum wage.

2 “Governor Cuomo Introduces Legislation and Comprehensive Plan to Protect Nail Salon Workers and Educate Employers." 2015. The Office of Governor Andrew Cuomo.
3 Based on an analysis of Yelp search results and data from the NYS Department of State.
The nail salon industry is growing quickly – the number of salons in New York City nearly tripled between 1997-2012. This growth is expected to continue, with the New York State Department of Labor projecting that employment of nail salon workers will grow almost 20 percent from 2016-2026, far outpacing the average growth rate of other industries in the state.

Wage theft is so endemic to this industry, affecting 82 percent of workers, that trying to solve it through individual worker-driven complaints with the Department of Labor or through private action, will not be enough to reform the illegal standard business practices of this industry. Previous research conducted by Make the Road NY and the Center for Popular Democracy found that New Yorkers experienced $965 million in stolen wages each year and that the Department of Labor recovered less than 3 percent of that amount.

At the end of 2019, Governor Andrew Cuomo announced that the state will begin phasing out the subminimum wage for nail salon workers, bringing the required wage up to the full minimum wage at the end of 2020. While eliminating this confusing pay system is an important step in the right direction, it is clear that the tip credit system is only part of the problem – our findings indicate the 79 percent of workers are not even being paid the subminimum wage to begin with.

To truly improve accountability in the nail salon industry, workers need mechanisms to ensure that employers are complying with regulations. New York State must pass the Nail Salon Accountability Act which would link business licensing and license renewal procedures with labor law compliance. **Compliance with the law must become part of the cost of doing business.**

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5 “Employment Projections.” The New York State Department of Labor.
7 "Governor Cuomo Announces End of Subminimum Wage Across Miscellaneous Industries Statewide." 2019. The Office of Governor Andrew Cuomo.
The wage theft calculations in this report are based on the tipped wage system that was in place at the time of the survey. To calculate wage theft, we looked at both the amount nail salon workers were being paid by their employers as well as the average amount that they were earning in tips. Nail salon workers are entitled to at least the subminimum wage. When workers don’t earn enough tips to reach the minimum wage, employers are responsible for paying the difference so they reach the full minimum wage. The wage theft calculations in this report are based on the amount that workers are owed due to subminimum wage violations plus the amount they are owed if they don’t reach the full minimum wage after factoring in tips and if employers don’t compensate them for the difference.

At the time of the survey, NY’s wage rates for nail salon workers were governed by location, number of employees, and whether or not nail salon owners claimed the tip credit. As of January 2020, the number of employees was eliminated as a category for determining wage rates, and starting in June 2020 the tip credit will begin to be eliminated bringing all workers to the standard minimum wage by January 2021. The chart below shows the wage system at the time of the survey.
More than 80% of respondents were experiencing wage theft at the time of the survey. Employers are legally responsible for paying the subminimum or tipped minimum wage, regardless of how much a worker makes in tips. They are also obligated to ensure that workers are making at least the standard minimum wage – when workers don’t earn enough tips to reach the minimum wage, employers are legally required to pay the difference. Lastly, employers are required to pay an overtime wage when employees work more than 40 hours in a week. Salon owners often fail to comply with some or all of these requirements, leading to widespread wage theft.

As of June 2020 the subminimum wage will begin to be phased out and nail salon workers will be entitled to the full minimum wage as a base wage starting from January 2021. While this is an important step, compliance remains a pressing issue as most nail salon owners (79%) don’t currently pay even the subminimum base wage.

"Nail salon workers often work for 10-12 continuous hours without time to rest or eat. I’ve seen that owners often do not pay overtime and do not pay minimum wage. When I’ve demanded my rights as an employee, I’ve been fired. The message is that my rights do not matter. I feel that I am not valued as a human being. I would like to both be able to support my family financially and be able to spend time with my children, but the long hours and low wages prevent me from being able to give my children this type of life."

– Sonia, nail tech for 20 years
WAGE THEFT PER WEEK

Of the 82 percent of workers surveyed that were experiencing wage theft, 58 percent were losing more than $100 per week. The average amount of wage theft per week is $181, which equals $9,412 per year.

These levels of wage theft greatly impact not only workers, but also their families and communities. Wage theft decreases income and keeps workers in poverty, and has been found to produce high levels of stress and perpetuate poor living conditions.6

PAID SICK TIME

WORKERS ALSO EXPERIENCE WAGE THEFT BECAUSE SALON OWNERS ARE NOT COMPLYING WITH PAID LEAVE LAWS, PARTICULARLY NEW YORK CITY’S PAID SAFE AND SICK LEAVE LAW.

"There were many times when my pay didn’t reach the minimum wage, but I accepted it because I didn’t know how much the minimum wage was and I thought the way they were paying me was normal. What we’ve seen is that most salons are not complying with the law, and although we’ve made complaints, things are getting worse, not better. We want the people who are in charge of the enforcement of laws to make the owners comply with those laws. We are raising our voices to reclaim our rights, until we can work in a place that is healthy, dignified, and just."

– Yanelia, nail tech for 14 years

**INDUSTRY SNAPSHOT**

Our findings also help paint a picture of what it’s like to work in the nail salon industry.

**HOW NAIL TECHS GET PAID**

More than half of surveyed nail salon workers are paid a flat daily rate, typically ranging from $80 - $100 per day for a 10-hour shift. About a quarter of workers are paid by commission, a percent of the cost of service. A $10 manicure for example, might net a nail salon worker $5, 50 percent of the cost. Regardless of the payment structure, employers are required to comply with minimum wage laws.

Wage theft is pervasive across all payment types, affecting 87 percent of workers paid by commission, 85 percent of workers paid a flat day rate and 70 percent of workers paid an hourly rate.

Depending on employer size and location, the tip credit ranged from $2.70-$3.65 per hour at the time of the survey. The vast majority of employers were out of compliance with their legal obligation to ensure that workers reach the full minimum wage when their tips are less than the tip credit. Of the 55 percent of workers who did not reach the minimum wage after accounting for tips, only 11 percent were compensated for the difference by their employers.

$3.33 IS THE AVERAGE HOURLY TIP

**OVERTIME**

62 percent of surveyed workers work overtime (more than 40 hours per week). When workers experience wage theft, they often work extra hours to make up for lost wages, which increases time poverty and can negatively impact health in a variety of ways, including higher levels of stress. For nail salon workers, working longer shifts also increases their exposure to toxic chemicals that have been linked to cancer, asthma, reproductive health issues, headaches, dizziness, and skin irritation.

63% OF WORKERS WORK SHIFTS THAT ARE AT LEAST 10 HOURS LONG

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10 Occupational Safety and Health Administration. “Health Hazards in Nail Salons.”
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FINDINGS

MANICURE PRICING

The average cost of a manicure in New York City and Long Island is $11.14.

- 25% of nail salons in New York City and Long Island charge less than $9 for a manicure.
- 70% of nail salons in New York City and Long Island charge less than $12 for a manicure.

Despite the high cost of living and operating a business in New York (including higher rents and a higher minimum wage), a 2013 New York Times survey found that manicure prices were well below those of other U.S. cities.11

In November 2019, Workers United conducted a phone survey of nearly 2,000 nail salons in NYC and Long Island and found that the average cost of a manicure in NYC was $11.68. On Long Island it was even lower at $10.03. Cheap manicures overwhelm the industry with 70 percent of salons charging less than $12 for a manicure, and 25 percent charging less than $9.

PRICING & WAGE THEFT

There is a clear correlation between manicure prices and wage theft.

We were able to get pricing data from 85 nail salons where workers we surveyed were employed. As prices go up, the rate of wage theft that workers are experiencing decreases. At salons where manicure prices are less than $13, 87 percent of workers experience wage theft, compared with 75 percent at salons where a manicure is $13-$15 and zero percent at salons where a manicure costs $16 or more.

As prices go up, the amount of wage theft that workers experience also decreases. At salons where manicures are $15 or less, workers experience an average of $123 in wage theft per week. At salons where manicures are more than $16, workers are paid an average of $58 more per week than the minimum wage.

OUR RECOMMENDATIONS

While eliminating nail salon workers from the tipped minimum wage is an important first step towards creating a more straightforward and clear wage system, **New York State must take action to improve accountability and compliance in the nail salon industry.**

When 79 percent of workers are not being paid the current subminimum wage by nail salon owners, it is clear that the severe wage theft in this industry is not just about the issues with the tipped wage system but about a generalized disregard for basic labor regulations.

Wage theft is so pervasive, affecting 82 percent of workers, that trying to solve it through individual worker-driven complaints through the Department of Labor or private action will not be enough to reform the illegal standard business practices of this industry.

To truly improve accountability in the nail salon industry, New York State must link business licensing and license renewal procedures with labor law compliance through passage of the Nail Salon Accountability Act. **Compliance with the law must become part of the cost of doing business.**

Workers and owners alike must be trained on labor law so that all parties understand how the system works and when it is being violated. The 'race to the bottom' in the nail salon industry must be and can be reversed.

**New York needs to raise standards for workers and owners to make the industry sustainable in the long term.**

The **Nail Salon Accountability Act**, sponsored by Assemblymember Catalina Cruz and Senator Diane Savino, which will soon be introduced in the New York State Legislature, would reform the business licensing process to hold bad actors accountable, shift the competitive advantage to salons that are complying with the law, and raise labor standards industry-wide.
THE NAIL SALON ACCOUNTABILITY ACT

CONCLUSION

Despite New York’s strong worker protections, this report finds that New York’s nail salon industry continues to be plagued by a severe epidemic of wage theft that affects over 80 percent of this majority immigrant women workforce. Workers routinely experience more than $100 per week in wage theft, which equates to thousands of dollars per year.

Nail salon workers are currently classified as “tipped workers,” a confusing system that will be phased out for the industry by the end of 2020. While eliminating the subminimum wage is an important step in the right direction, workers still need mechanisms to ensure that employers comply with labor regulations.

Our findings indicate that most rampant form of wage theft is due to noncompliance with the required subminimum wage, which raises concerns that without additional mechanisms for enforcement, the new minimum wage law will also be violated. We urge New York State legislators to pass the Nail Salon Accountability Act, sponsored by Assemblymember Catalina Cruz and Senator Diane Savino, which would reform the business licensing process by using licensing regulations as a mechanism for compliance with labor laws.

Key Components of the Bill:

- Mandatory training for nail salon owners and workers on labor and health and safety laws
- Certification requirements for owners to show that they are in compliance with labor laws, health and safety laws, and the new training requirements
- Worker input incorporated into business license renewal process
- Additional reporting requirements for salon owners on ownership structure and prior penalties, such as judgements, injunctions, liens, and administrative orders
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