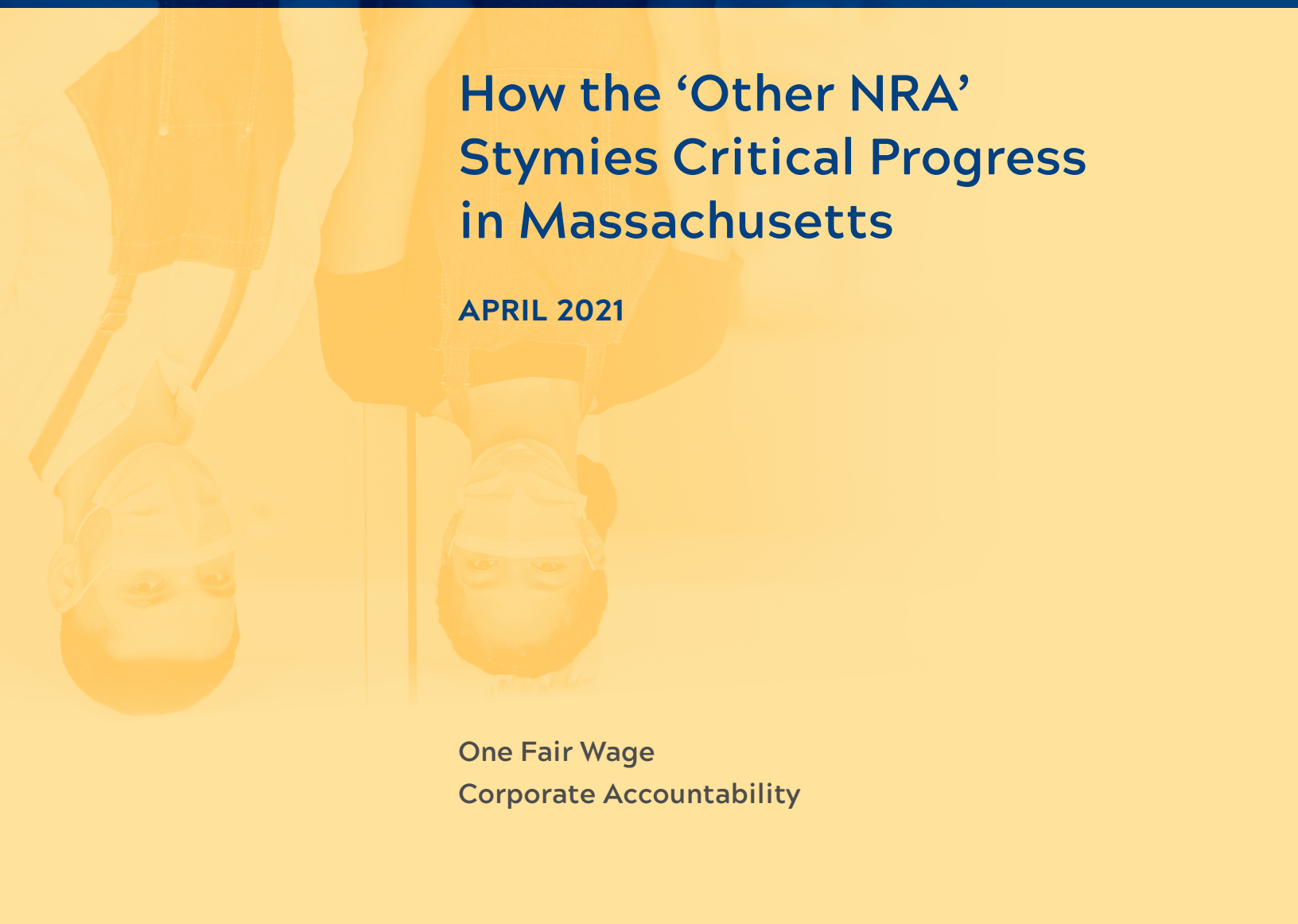




MINIMIZING WAGES & WORKER HEALTH



How the 'Other NRA' Stymies Critical Progress in Massachusetts

APRIL 2021

One Fair Wage
Corporate Accountability



EXECUTIVE SUMMARY

MINIMIZING WAGES & WORKER HEALTH takes a critical look at how the Massachusetts Restaurant Association (MRA), the Massachusetts affiliate of the powerful National Restaurant Association (NRA), has undermined workers' rights and public health in the lead-up to and during the COVID-19 pandemic. This white paper does so by examining lobbying efforts in the state of Massachusetts, where progress on worker pay, paid sick leave, and workplace safety has been stymied by the NRA's state affiliate at the behest of leading NRA members such as McDonald's Corporation, The Coca-Cola Company, Darden Restaurants, and more.^{1,2,3,4}

Congress is currently considering the Raise the Wage Act, which would increase the minimum wage to \$15 for all workers in the United States and phase out the subminimum wage for tipped workers, which has been stuck at \$2.13 for the past three decades.⁵ But Massachusetts need not wait for federal action. State legislators have recently re-filed *An Act requiring one fair wage* (S.D. 1811/H.D. 3462), which would eliminate subminimum wages and allow for tip sharing among back of house workers, thereby addressing the occupational segregation common in the restaurant industry. With this momentum, we have an opportunity to make real progress for workers' rights. If we want to reform the unjust food system and protect the health and well-being of the workers on the front lines of the COVID-19 pandemic, then it's time to start calling on policymakers to reject any support from the NRA and its state affiliates and pass the commonsense policies required.

The paper is an effort to equip the public at large with information that could make legislatures more responsive to the interests of working people, hold them accountable for their actions, and protect the critical policies under consideration on the state and national levels from industry interference. For concerned residents in the dozens of states yet to be profiled, this report is a representative illustration or cautionary tale of how the NRA's state associations are operating in your backyard.

KEY FINDINGS

- Over the last two and a half years, the MRA has been a principal, if not the principal, opponent of new workers' rights policy, spending more than a quarter of its lobbying budget opposing nearly every bill that could have advanced workers' rights, including legislation to eliminate subminimum wages and to guarantee emergency paid sick time [e.g., H.1617 and S.2701].

- **The MRA's primary lobbyists aren't just working the statehouse halls to get votes, but also making well-placed campaign contributions to influential politicians like former House Speaker Robert DeLeo, who served as the speaker of the house from 2009 to 2020.**

These findings, and those detailed across the report, paint a picture not only of how corporate chain restaurants, including fast food and full service chain restaurant corporations, are crippling public policy at the public's expense, but also how restaurant and foodservice industry workers, and a concerned public, can fight back.

METHODOLOGY

The following white paper reviews the public lobbying disclosures of MRA-affiliated lobbyists, specifically the bills on which the MRA lobbied from January 1, 2018, to June 30, 2020. These public lobbying disclosures can be found on the Secretary of the Commonwealth of Massachusetts' website.

We identified ways in which the MRA is advancing the NRA's agenda by looking at wage and workers' rights related bills that the state restaurant association is attempting to influence. In addition to reviewing public lobbying disclosures, we used Follow The Money to identify campaign contributions, Progressive Massachusetts' scorecard to analyze the progressivism of relevant legislators, and the MRA's own website to identify their stance on certain bills.⁶

To highlight connections between the MRA and important wage- or worker-related bills, we also analyzed whether the lead sponsors and co-sponsors of relevant bills received any campaign contributions from any MRA-affiliated lobbyist. Finally, we identified whether the lobbyists contributed to members the relevant Senate or House committees that control if a bill advances to the floor.

After analyzing the data, we provided recommendations for people, policymakers, and corporations.

LIMITATIONS

In Massachusetts, a roll call vote is taken only when a legislator requests it (with the support of fifteen colleagues). Bills and amendments, if they even make it to the floor, are usually passed or rejected via a voice vote, with no public record of an individual legislator's position.⁷ Moreover, roll call votes taken in House committees and joint House-Senate committees are, with minor exceptions, not available to the public, further weakening political accountability and transparency.⁸ Because of the Massachusetts legislative process, we were unable to compare campaign contributions and donations to votes cast by specific legislators to the extent desired. For this white paper, we only reviewed the subset of bills that directly relate to wages and workers' safety. We did not analyze bills related to nutrition, public health, climate, or the environment. Such inquiry would have painted an even less flattering picture of this Big Business lobby and will surely be the substance of future analysis.



MASSACHUSETTS: AHEAD OF THE CURVE, BUT STILL COMING UP SHORT THANKS TO BIG FOOD'S FAVORED LOBBY

MASSACHUSETTS HAS BEEN CONSIDERED one of the most advanced states in the U.S. in assuring workers the most basic rights. Yet for many in the food industry, fundamental needs remain unrealized. This is self-evident during a time of staggering unemployment^{9,10} and unprecedented economic recession,¹¹ when essential workers,¹² a majority of whom are Black, Indigenous, and people of color (BIPOC) women,^{13,14} face significant health risks yet are paid a sub-living wage, lack paid sick leave, and are at a higher risk of being exposed to COVID-19.¹⁵ The human and economic costs of preventing progress could not be higher, especially as we consider disparities across race and gender. Given the severe fallout from the COVID-19 crisis, it is clearer than ever before that ensuring progress on wages, worker health, and workplace safety is critical, not only to the food industry but also for all essential workers.



Empty seats at a cafe in Cape Cod, Massachusetts. According to the U.S. Bureau of Labor Statistics more than 2.5 million restaurant workers in the U.S. have lost their jobs as COVID-19 forced restaurants to reduce operations, close temporarily, or shut their doors for good.

Almost 10% of Massachusetts employees work in the restaurant and food service sector¹⁶— with 36% of Massachusetts restaurant workers identifying as BIPOC and a majority of workers identifying as women.¹⁷ For tipped restaurant workers who rely on the tipped subminimum wage, the COVID-19 pandemic has only exacerbated long-standing financial insecurities.¹⁸ Although Steve Clark, Vice President of Government Affairs at the MRA, has stated that tipped workers are “the highest earners in every restaurant,”¹⁹ tipped workers in Massachusetts who receive the subminimum wage are nearly three times as likely to live in poverty, and twice as likely to rely on Medicaid, as the rest of the workforce.²⁰ They

are also twice as likely to experience sexual harassment as restaurant workers in states that pay all workers a full minimum wage,²¹ with more than 40% of workers reporting a clear change in the frequency of unwanted sexualized comments from customers.²² For all restaurant workers, both tipped and non-tipped, the disproportionate impact BIPOC women in the restaurant and food industry face can no longer be ignored.²³ In a time of crisis, it is even clearer that Massachusetts’ pattern of incremental reform does not provide enough for workers’ most basic survival.

Although Massachusetts legislators voted in 2018 to raise the minimum wage to \$15.00 per hour, they weakened the possible economic gains for workers



The subminimum wage for tipped workers is a direct legacy of slavery. Following the emancipation of enslaved people, restaurant industry leaders, a precursor to the NRA, lobbied for formerly enslaved people to be hired for little to no pay in exchange for tips.³⁵ This policy primarily affected Black women and their families. More than a century later, tipped workers are still subject to a subminimum wage. Today, the federal minimum wage for tipped workers stands at only \$2.13 and has not increased since 1991.³⁶

Photo: African American waiters posing before their tables, New York (1853)
Chicago History Museum/Getty Images.

by adding a carve-out for tipped workers and staggering the increase over five years.²⁴ This year, Massachusetts' tipped employees' minimum wage increased to \$4.95²⁵ and the state minimum wage increased to \$12.75 per hour,²⁶ with annual increases to follow until 2023 when they reach \$6.75 and \$15.00 per hour, respectively. This is a step forward, but one that is still grossly inadequate,²⁷ especially in eliminating the racist legacy of the subminimum wage²⁸ and in realizing one fair wage for all restaurant workers.²⁹ To illustrate, the Massachusetts Institute of Technology (MIT) calculates today's living wage for a single adult with no children living in

Boston in 2020 to be \$16.74.³⁰ For a household with two working parents and a child, a living wage is \$18.20.³¹ By the time the minimum wage increases to \$15.00 per hour statewide, inflation will push the living wage over \$18.00 and \$20.00 respectively.³² So even for one of the most liberal states in the U.S.³³ – in raising the minimum wage, the MRA's opposition has been able to prevent policy from aligning to real-world needs.³⁴

Livable wages for all food and restaurant workers, including tipped employees, is not the only commonsense labor policy that has failed to advance. In addition to the MRA's repeated opposition and success in thwarting the adoption of one fair wage policies,³⁷ the MRA has opposed efforts to rein in wage theft.³⁸ The state restaurant association lobbied against bills that would provide workers with guaranteed paid family medical leave, ultimately succeeding in getting the legislature to weaken the bill. The MRA rarely participates in fair talks and compromises with labor representatives unless a ballot initiative threatens their agenda. Their ability to ignore popular labor policies until legislatively imminent speaks to the MRA's power and influence in the State House.³⁹

In short, the MRA has been a major player in killing commonsense pro-worker legislation across the state.

FINDINGS: THIS ISN'T YOUR "MA AND PA RESTAURANT" LOBBY

FIG. 1
2018 MRA Bills (Lobbied)

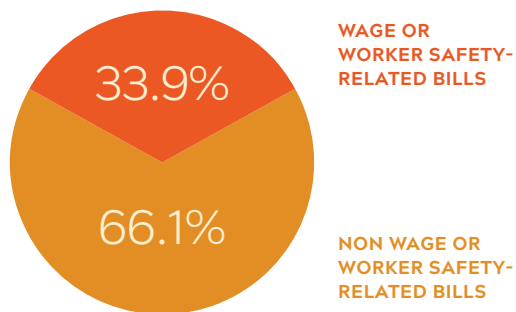


FIGURE 2
2019 MRA Bills (Lobbied)

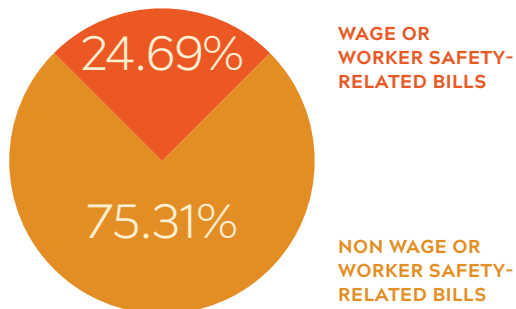
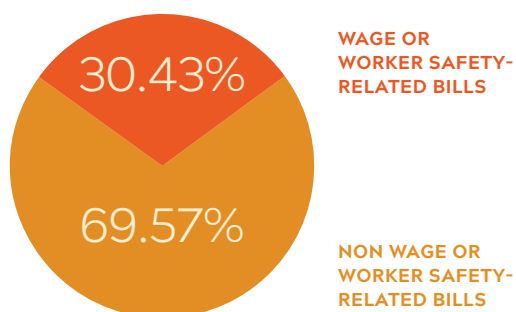


FIGURE 3
2020 MRA Bills (Lobbied)



Source: Analysis of bills lobbied from 01/1/2018 to 06/30/2020.

SINCE MARCH OF LAST YEAR, the COVID-19 pandemic has made explicit the consequences of Big Food's political interference (via state restaurant associations) on essential workers, including workers in the food and restaurant industry, who continue to shoulder severe financial and health burdens due to the pandemic.⁴⁰

The difficulty in assuring basic worker rights and public health in the Massachusetts Statehouse, and in statehouses across the country, is thanks, in large part, to the NRA and its 52 state affiliates.⁴¹ In Massachusetts, the MRA, founded in 1934,⁴² has committed itself to maximizing the bottom line for the boards, executives, owners, and shareholders of major food corporations, all too often at the expense of the low-wage workers who are the backbone of the food and restaurant industry. Sponsored by corporations like Sysco and U.S. Foods,⁴³ the MRA is just one branch of the NRA superstructure that continues to influence commonsense state and local policies that impact the health and well-being of restaurant and food workers around the country.

For years, the MRA has worked hand in hand with bad actors, including the tobacco industry, by lobbying to defeat state and local laws in the policymaking arena and ultimately upholding the interests of large corporations.⁴⁴ For example, from the late 1970s to at least the late 1990s, the MRA opposed and lobbied against smoking restrictions, including any state and local clean indoor air legislation, to benefit Big Tobacco.⁴⁵ And not much has changed, with the MRA continuing to lobby against commonsense policies that affect the health and well-being of people, especially BIPOC communities.⁴⁶

In our analysis, from January 1, 2018, to June 30, 2020, the MRA has been a principal opponent of nearly every bill that could have advanced workers' rights, including legislation to eliminate subminimum wages and to guarantee emergency paid sick time [e.g., S. 1082 and H.1617/S.2701]. These bills, if passed, would require employers to pay all employees the full state minimum



The Statehouse has served as a top platform for the MRA to advance its priorities at the expense of the rights and health of workers.

wage (as opposed to the tipped minimum wage or other subminimum wages)⁴⁷ and guarantee all workers who are not covered by federal legislation to have two weeks of emergency paid sick time, available for use immediately, during the COVID-19 pandemic.⁴⁸

In that time frame, the MRA has dedicated significant resources each year to influence wage and worker safety related bills, with more than a quarter of the bills on which they have lobbied relating to workers' rights. It was only in March 2021, the senate was able to pass the emergency paid sick leave

bill, but after significantly limiting the number of days of paid leave and only within the context of providing tax breaks for companies providing sick leave to workers.⁴⁹

This is important because the MRA has significant leverage in the policymaking space to fundamentally thwart commonsense policies that aim to protect the basic rights of not just restaurant and food workers, but also state employees across industry sectors. Its leverage comes not only from the clout of its industry members, but also from its key relationships with legislators, including the former Speaker of the Massachusetts House of Representatives, Rep. Robert DeLeo of Winthrop.

According to Follow The Money, the food and beverage industry is a top contributor to the former Robert DeLeo Committee,⁵⁰ with the MRA making three contributions between 2016 and 2020 totaling \$1500.00.⁵¹ Objectively, this is not a significant amount of money, but it is important to consider how even small monetary donations can be used to purchase access to politicians and influence political support. The role of contributions in lobbying is not a simple quid pro quo. Rather, it is a way of buying access. Lobbyists often donate to get into the rooms where they can have the direct attention of legislators, something that the average constituent, especially one struggling to get by, does not have. The money trail is also often difficult to follow as soon as it leaves the scope of what is required to be disclosed by the law, such as investments in businesses held by legislatures, in-kind favors and gifts exchanged, and access to business opportunities offered in quid pro quo, among many others. Thus, such relationships between industry lobbyists and legislators must be seen with a holistic lens.

With significant contributions from the food industry to high-ranking legislators such as former Rep. DeLeo, the long-standing relationship between the MRA and legislators poses an obstacle to the advancement of workers' rights.



Inside the Massachusetts Statehouse's Senate Chamber.



REGISTERED LOBBYISTS FOR THE MRA

Bob Luz

MRA President and
Chief Executive Officer,⁶¹
member of the National
Restaurant Association's
Board of Directors

Stephen (Steve) J. Clark

MRA Vice President
of Government Affairs⁶²

William F. Coyne Jr.

Lobbyist at William F.
Coyne Jr. Esq P.C.⁶³

Patricia E. McCarthy

Lobbyist at William F.
Coyne Jr., Esq P.C.⁶⁴

Alongside key relationship building between the MRA and legislators, public lobbying disclosures of MRA-affiliated lobbying firm William F. Coyne Jr., Esq. P.C., show dark past and present ties to Big Oil and Big Tobacco – two industries that always favor profits over people and the planet.^{52,53} The firm's relationship with Big Oil goes back to at least 2016, when fossil fuel giant ExxonMobil paid William F. Coyne Jr., Esq. P.C., \$50,000 to oppose two carbon tax bills [S.1747⁵⁴ and S.1786]⁵⁵ to uphold the industry's bottom line.⁵⁶ Now, they're making rounds on key bills related to workers' rights in the food and restaurant industry. For example, in 2019, the MRA paid William F. Coyne Jr., Esq. P.C., \$50,000 (\$25,000 between 01/01/2019 to 06/30/2019⁵⁷ and \$25,000 between 07/01/2019 to 12/31/2019)⁵⁸ to influence legislation [e.g., S.1092,⁵⁹ S.1082]⁶⁰ related to workers' rights to uphold the food and restaurant industry's bottom line. As a lobbying firm that consistently represents industries that prioritize profit over the health and well-being of people, it is important to underscore that this one lobbying entity has influenced commonsense legislation in the Massachusetts Statehouse for the primary reason of benefiting its clients – Big Oil, Big Tobacco, and Big Food.

WELL-PLACED CONTRIBUTIONS TO INFLUENCE KEY VOTES?

From January 1, 2018, to June 30, 2020, MRA-affiliated lobbyists attempted to influence key legislation through campaign contributions. Notably, MRA-affiliated lobbyists have contributed to legislators who are the lead sponsors or co-sponsors of bills related to tips, wages, and workers' safety.

Some examples include:

- ▶ **From January 1, 2018, to December 31, 2018**, the MRA lobbied against H.4640⁶⁵ (also known as the "Grand Bargain," which created a permanent sales tax holiday, increased the minimum wage, and instituted paid family and medical leave) multiple times.^{66,67,68,69,70} Within this time frame, the MRA lobbied against the first two parts of this bill. MRA-affiliated lobbyist William F. Coyne Jr. also donated \$200.00 (the state annual campaign

WORKERS RIGHTS AND PROTECTION BILLS

S.1747

An Act combating climate change.

S.1786

An Act to protect our environment and reduce the carbon footprint of the Commonwealth.

S.1092

An Act updating overtime protections to protect the Commonwealth's middle-class workers.

S.1082

An Act requiring one fair wage.

H. 4640

An Act relative to minimum wage, paid family medical leave, and the sales tax holiday.

S. 2574

An Act to prevent wage theft and promote employer accountability.

H. 1617

An Act requiring one fair wage.

H 1619

An Act relative to the pooling of tips.

H. 3156

An Act to clarify the tips law.

contribution limit for lobbyists)⁷¹ to the Nick Collins Committee,⁷² the Paul Feeney Committee,⁷³ and the Marc Pacheco Committee,⁷⁴ three legislators who voted nay on the bill.⁷⁵

- ▶ **From July 1, 2018, to December 31, 2018,** the MRA opposed S.2574⁷⁶ twice.^{77,78}
- ▶ **On May 10, 2018,** Coyne Jr. donated \$200.00 to S.2574 sponsor Karen E. Spilka, member of the Massachusetts State Senate, who was elected president two months later.⁷⁹
- ▶ **From January 1, 2019, to December 31, 2019,** the MRA opposed H.1617 six times.^{80,81,82,83,84,85,86} Coyne Jr. donated \$200.00 to five bill petitioners' campaign committees,^{87,88,89,90,91,92} and Patricia E. McCarthy donated \$100.00 to another petitioner, the Denise Garlick Committee.⁹³
- ▶ **From January 1, 2019, to December 31, 2019,** the MRA supported H.1619⁹⁴ twice, a law that would expand managerial access to tip pools, thus decreasing income for direct service staff.^{95,96} Coyne Jr. donated \$200.00 to the Ann-Margaret Ferrante Committee⁹⁷ and the Tommy Vitolo Committee,⁹⁸ the petitioners of the bill.⁹⁹
- ▶ **From January 1, 2018, to December 31, 2018,** the MRA supported H.3156¹⁰⁰ eight times.^{101,102,103,104,105} During the legislative process,¹⁰⁶ Coyne Jr. donated \$200.00 to one of the bill's lead sponsors, Rep. Joseph (Joe) McGonagle.¹⁰⁷

Even without drawing direct connections between MRA-affiliated lobbyists' campaign contributions to legislators and the final votes of specific legislators on key workers' rights legislation, the pattern of donations to the sponsors of anti-worker bills in itself is concerning for the advancement of rights in the restaurant and food industry.

THOUGH SUCH POLITICAL INFLUENCE SEEMS COMMONPLACE, SHOULD IT BE?

The MRA and other state associations tout their relationships with "Ma and Pa restaurant" members, but in reality, their political advocacy is backed by the NRA, which is subsidized by major corporations such as McDonald's, Coca-Cola, and Darden—the same corporations that pay out impressive dividends and millions in executive compensation, often at the expense of, and largely thanks to, severely underpaid and neglected workers.¹⁰⁸



For example, after a seven-year-long wage theft suit, longtime NRA member McDonald's Corporation recently agreed to pay \$26 million to 38,000 workers across California.^{109,110,111} Despite steps holding the NRA accountable and legally liable for their worker abuses, this year, the MRA lobbied against S.B. 1066,^{112,113,114} a bill that could help prevent common situations like wage theft from happening to workers in Massachusetts as well.¹¹⁵ The clear agenda of the NRA superstructure to sacrifice the health and well-being of workers, despite legal liability, should not be the norm.

The pandemic has made it abundantly clear that BIPOC low-wage workers are suffering at an exponential and disproportionate rate in comparison to their white counterparts – and this is particularly true for tipped restaurant workers.^{116,117,118} Research analyzing current population survey data on tipped and customer-facing positions within restaurants demonstrates a \$7.79 wage gap between Black women and white men in Massachusetts, which is 60% greater than the national average.¹¹⁹ And in Massachusetts, tipped restaurant workers who earn a subminimum wage are forced to obtain a substantial portion of their income from customer tips instead of being supported by their employer.

As restaurants navigate the challenges of doing business amidst the pandemic, we need basic safeguards for restaurant and food workers now. With restaurants being a place for significant COVID-19 exposure,¹²⁰ workers are often the first line of defense in enforcing COVID-19 safety precautions. Despite these health risks, after months of unemployment, dire economic hardship, and a new trend in decreased overall tipping,¹²¹ essential food and restaurant workers will be required to enforce public health measures upon the very people who pay their wages. This disincentive poses a grave risk not only to the more than 300,000 Massachusetts restaurant workers, but also to the broader public.¹²²

Policymakers should focus on reforming the restaurant and food system to ensure workers, especially BIPOC women, are treated fairly, equitably, and with respect and dignity.¹²³ The food and restaurant industry must adapt and change to protect the fundamental and basic rights of workers, and reject the NRA's approach to sacrifice the health, livelihood, and well-being of workers to assure the viability of the industry.



CALL TO ACTION: STANDING UP TO THE NRA: A KEY OPPONENT OF WORKERS' RIGHTS

REPORTS BY CORPORATE ACCOUNTABILITY (*Want Fries With That (Policy)?*) and Restaurant Opportunities Center United (*Stop the Other NRA*) have detailed the NRA's coziness with Congress and the Trump Administration, as well as the disturbing impact this has had on labor and public health policy. *Minimizing Wages & Worker Health* helps tell the rest of the story as to how the NRA and its primary backers have helped deprive millions of people of a living wage, adequate health care, paid sick leave, basic protections from workplace discrimination, and more: their state partners.

State restaurant associations generally share the legislative priorities of their national partner and are generally bankrolled by the same corporations. Like the NRA, while state associations claim to represent restaurateurs large and small, their political activities tend to prioritize those on the "large" end of the spectrum. And because the NRA, its backers, and lobbying partners, such as the U.S. Chamber of Commerce, have largely succeeded in suppressing policies including an overdue increase in the federal minimum wage, much of the legislative action has moved to the states.

That's why heightened scrutiny of state restaurant associations is so critical at this moment. During a pandemic, the majority of low-paid workers – farmworkers, fast-food workers, tipped waitstaff, and meatpacking workers, to name a few – have no paid sick leave.¹²⁴ Given that two-thirds of jobs nationally pay a sub-living wage, their financial security is precarious¹²⁵ – with the food industry being the largest and most conspicuous offender. And their health and well-being are compromised by the industry's target marketing to the communities of color, disproportionately represented among food industry workers.

These realities are not inevitabilities. They are the result of a restaurant industry lobby that aims to consolidate as much of its annual \$900 billion in sales¹²⁶ for those in executive suites, board rooms, and Wall Street offices – at the expense of those who actually produce, prepare, and serve the food we all eat. In 2017, it was reported that the NRA and its members spent almost \$80 million in disclosed federal contributions over the last 30 years.¹²⁷ This needs to change now. With a shift in the U.S. policymaking arena, the public has an opportunity to support workers' rights, including supporting measures to raise the state minimum wage and calling on state legislators to stand up to this powerful lobby. Together, we can reform this unjust food system by calling on policymakers to reject any support from the NRA and its state restaurant associations and enact One Fair Wage legislation, among other workplace safety and paid sick leave policies, to protect the health and well-being of workers who are currently on the front line of the COVID-19 pandemic.



RECOMMENDATIONS

The public, policymakers, and the industry have manifold tools at their disposal to rein in the political interference of the MRA, other state affiliates, and the NRA.

PEOPLE CAN...

- ▶ **Support the 2021 Raise the Wage Act** to raise state minimum wages by contacting your state legislators, supporting the #NotOnTheMenu campaign, and signing the #OneFairWage petition at www.onefairwage.com/take-action.
- ▶ **Call on state and federal legislators** to enact One Fair Wage legislation now, by going to www.fightdontstarve.com.
- ▶ **Support candidates** who have voted for and/or publicly declared support for One Fair Wage, universal paid sick leave, and stronger workplace safety requirements.
- ▶ **Demand the restaurant industry and its lobby stop interfering in commonsense policymaking** once and for all and stop meddling in democracy.

POLICYMAKERS CAN...

- ▶ **Publicly pledge to reject money from Big Food** and any of its affiliated trade associations and front groups.
- ▶ **Create a more transparent legislative bill process** and establish stronger accountability mechanisms, such as requiring the publication of all recorded votes in committees.
- ▶ **Publicly declare your support for One Fair Wage**, universal paid sick leave, and stronger workplace safety requirements.
- ▶ **Hold the restaurant industry accountable and liable** for the harm it continues to cause its workforce, especially during a public health crisis.

CORPORATIONS CAN...

- ▶ **Immediately end any membership with or funding to the NRA** and its state associations and join organizations such as Restaurants Advancing Industry Standards in Employment (RAISE), if you are truly a community-concerned enterprise.
- ▶ **Pledge to stop political spending** whether directly, through trade associations like the NRA, or otherwise.
- ▶ **Make workers' rights, including their health and well-being, a primary mandate** for their organization, and become accountable to the public on this front through transparent, comprehensive, and regular reporting on political activities.

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