STATE OF CONNECTICUT
SECOND AMENDMENT NEW HAVEN
TRANSITION STRATEGY

March 9, 1959

The second meeting of the Second Restaurant Wage Board was held on Friday, March 9, 1959, at 10:30 a.m. in the offices of the State Labor Department, 92 Farmington Avenue, Hartford.

The following were present:
Representing the Employees:
Mrs. Margaret Ireland
Mr. Leonard Lapham

Representing the Public:
Mrs. Elwood Biggs
Judge William Malvin
Mr. George Paul

Representing the Employers:
Mrs. Ethel Forman
Mr. Louis Rosenfeld
Mr. David LeFavre

Representing the State Labor Department:
Commissioner James E. Kiessling

Mr. Jesse Baldwin, Director of the Minimum Wage Division
JUDGE MURPHY: Let me see. Maybe you could tell us exactly your difficulty.

COMMISSIONER ROBERTS: I tried to reserve our blank notes, and I have proposed this statement which I have written this way.

A question has been raised regarding the regulations promulgated by our paper toms and recommended by the second insert and page number.

Several representatives of the restaurant industry have asked for a clarification of the meaning of Section 15:12-7 and 15:12-7. The point raised involved the classification of the restaurant employees who are paid above the minimum wage, and the classification of people employed in those occupations who would receive regularity, as outlined in Section 15:12-7. I assume if 4/40 or 40 paid in regularity is received in the case of a full-time employee, as 5/20 or 20 paid in regularity is received in the case of a part-time employee, in this case, is a restaurant considered to be a service employee, or in the case of a restaurant considered to be a service employee, is the amount of tips he received more than 30 cents per hour.

JUDGE MURPHY: There you have your problem.

COMMISSIONER ROBERTS: Have I stated this clearly?

COMMISSIONER ROBERTS: Very clearly.

COMMISSIONER ROBERTS: I am surprised. It is an involved sentence.

That is the question involved. And while I think there may be some ambiguity involved here, I would rather get an opinion from the members of the board as to what their understanding of the situation is and be guided by their opinion in this matter, and it may be necessary perhaps to change this wording to agree with whatever your opinion is.

JUDGE MURPHY: Does anybody care to offer any suggestions?

MR. LAFAVOR: Why don't we ask the two employers representatives to express themselves. If they understand it as we do, there is no argument.

MR. LAFAVOR: Would it help if I express my opinion?
JUDGE MALOFF: Somebody has to start the ball rolling.

MR. LEPARD: My recollection of this is that it seemed quite clear and fine and again as we were talking this over the question came up as to whether or not we were going to have service or non-service discrimination. We decided to have it. It is in the transcript. The definition divides the two groups and throughout our arguments, we seemed to agree that the classification was based upon gratuities. And in your argument here I think the two key phrases, and they appear in both sections, are "whether or not the employees customarily receive gratuities". And when these definitions were read to us, those seemed to be a safeguard enough to answer the question. That is why the misunderstanding has resulted. I think it is possibly the emphasis in one paragraph against another, or one word against another group of words that brought about the misunderstanding. It is an ambiguity of language. We struggled with it. We interpreted them, one way, you another. In both cases you state the key phrase is "whether or not the employees customarily received gratuities" and that was our argument throughout the hearing, as I recall.

MS. POLAND: I believe you are right in that.

COMMISSIONER BICKERT: What you are saying is that the test that has to be applied is whether or not they customarily receive gratuities as defined in 100-266.

JUDGE MALOFF: Does anybody have any suggestion to make?

MS. POLAND: On what was this based? We came to this $20.00 a week gratuity business.

JUDGE MALOFF: I don't think we had as much definite consideration. We took this from the previous wage order and the minutes of the meeting say that, "Mr. Poland makes a motion that the gratuity in the previous order be accepted, and Mr. Bickert seconded the motion."

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Judge Halble, continued

definition in the previous order again and the motion was put to a vote. The 
result was that five members were in favor and the three employer members 
did not vote. This is in the present order himself the word for word, completely 
just as it was in the previous order.

MR. PENAUD: The only thing that escaped my attention was this $10.00 
a week gratuity; This was a 1951 order. This was taken from a salary of seven 

MR. BALEWITZ: It was at least 1951.

MR. PENAUD: And I do think perhaps $10.00 should be raised to conform 
with what can normally be expected for a tip at this time or $5.00 an hour on the 
basis of a 60-hour week. This comes to $16.00. Then it is my feeling if a 

commissioner or waitress will sign such an affidavit that they are receiving a 
minimum of $5.00 an hour in the minimum or $16.00 a week then they should be 

classified as a service employee.

MR. LAFAVOUR: This is my standpoint, a question of how broad we can 

get into this question without involving getting a change. You wanted an 
interpretation. You don’t want the thing rewritten. We have no objection.

COMMISSIONER RIGGINS: That is a very good point. I am not clear 

as to how much latitude we have at this point.

MR. LAFAVOUR: It doesn’t make much difference. A person who doesn’t make 

$16.00 a week in tips will not work on any job where she is depending on tips.

COMMISSIONER RIGGINS: Maybe we should ask Mr. Baland after the 
procedure. Let us say this board agreed that the test should be whether or not they received gratuities and that they wanted to change the amount 
from $10.00 to some other amount perhaps higher. What would be the procedure 
that would have to be followed?

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Mr. Balm: Well, in fact, if you are changing the rates if you do that, you are setting up a different rate. You would have to have the wage order in effect six months. You couldn't make any changes until then and you would have to recross the state line through the whole process of setting up hearings and so on, even having you sign to establish that.

Mr. Louis Ricciuti: Wouldn't that also be an ambiguity since our gravity duties in our discussion and always considered $5.50 an hour so that I don't think there would be any legal change. This is more or less of a misinterpretation that it violates the basis of the wage order be put in instead of $5.50 this site it lower. I think it would be in order legally as long as we are going to clarify these two sections let it stay at $5.50 an hour without mentioning $10.00.

Mr. Balm: You couldn't change $10.00.

Mr. Louis Ricciuti: That is lower than our agreed minimum. It should not have been put there.

Commissioner Ricciuti: Why do you feel that changes the rate?

Mr. Balm: You are bringing in another group. You are permitting another group. You want to say those in the $10.00 group will be considered as service employees and people below that non-service.

Mr. Louis Ricciuti: If we have agreed to an exception for the position.

Mr. Balm: My, you say that is the maximum. You can take anything between $10.00. You may not have earned $5.50. You can take as low as $5.00.

Commissioner Ricciuti: Is it a scale item?

Mr. Balm: Yes. Do you have the right to change any rate?

Mr. Louis Ricciuti: Then it is all right. That is the exception.

Commissioner Ricciuti: I wonder if we can enter an agreement or you people come to an agreement as what the original question was and we try it this way and you would this exception in and then if 1:1 it is spread necessarily after...
Commissioner Bedell, continued:

six months this ought to be changed. I think maybe we can get together again
and talk about it.

JUDGE MAUPIN: Sorry since your order was promulgated, it was filed
prematurely.

MRS. POLANSI: I thought it was a good decision when I spoke about it.

MR. BULMIR: It has to be in effect six months.

COMMISSIONER BEDELL: Six months from December 1. It would go to
June 1. Why didn't you come to agreement on this other point and I think
that will clarify it enough. Then you can leave the standard at $10.00 per week.

MRS. POLANSI: Dunham's said... For in this main decision that the
sense of the decision of the Board was that we were concerned with
getting these people in the classifications on the basis of whether they got
tips or not rather than where they were working when they got them.

COMMISSIONER BEDELL: If that is the consensus of opinion, do you
think there ought to be a vote?

JUDGE MAUPIN: Let us see how many agree with this. All those who
are willing to agree to this proposition say "aye".

(The votes were not counted at this time but there was
a later vote.)

MRS. POLANSI: The people who customarily receive tips are considered
service employees.

MR. LAFAYETTE: Regardless of where they work.

MR. POLANSI: Whether behind the counter or marching at the table or
behind the counter.

COMMISSIONER BEDELL: It is correct providing they receive the
requisite on income in excess of $100-120.

If they get $12.00 per week as full-time employees or $2.00 per day in case
of part-time employees.

MR. POLANSI: If we left just nickel or quarter, we wouldn't be here.

MR. BULMIR: We would like to explain our position. This is one of the
main reasons. There must have been a reason to state countergirls, counter...

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Mr. Baldwin, continued

counterparts. It must have been that or a similar reason. It would have been very simple if it was intended what the original Board set to say those were outside more than a specified amount of service employed and those who receive less are non-service. There must have been something more than that because if the way this is worded out, as Mr. Paul pointed out, it appears they think employees who do not customarily receive gratuities or defined sums to employees merely food or beverage to Persons or drink or meals and who do not customarily receive gratuities or defined sums, does not necessarily refer to lessees and counterparts and counterparts or that is the reason why we think the way it is worded here that is the way it should be interpreted and the only way.

Mr. Paul: What would you do if the Beverly Inn were a party on the front lawn?

Mr. Baldwin: You set up a table. Seriously it has presented a lot of problems to us. Drive-ins are one. A lot of other things came up that created problems. I am explaining our position on it. I am not a lawyer. Perhaps the Judge can tell us. It is ambiguous enough so that we can interpret it this way and interpret it one way or the other.

Counsel Malone: There is a danger in anything which requires this degree to include persons who are not or it is drawn and to exclude persons who are the. You are changing it as regards certain people. That can be done from six months after the first of last December, if it is a matter of making clear what the Board had in mind in its direction of service employees. I think this would get us with that. Your suggestion, Mr. Paul, has to leave out the words.

Mr. Paul: "Moore or table" is one a question rather than a suggestion.
COMMISSIONER BLUMENTHAL: I feel very confident that if the Board decides that this is the way that should be interpreted that if there is any legal suit or this the fact that the Board out and went over this matter would certainly seem to me to be prevailing in the matter and I don’t think it is necessary to change my way of thinking.

MR. PAUL: Do it by interpretation.

MR. POLLARD: I like the way it is written. There are many, many others where girls wait on tables in eateries where they get in tips, a bonus tip, and I believe that was put there to reward those people who worked in places like that and I believe it should stay.

MR. PAUL: My weren’t suggesting taking that out. Don’t leave out “table or booth” and let the local if they get tips.

COMMISSIONER KINCAID: There would be difficulty in determining where they have both booths and counters.

MRS. GRIFFIN: Misters all do.

MR. LOUIS HICKS: What would happen if you had an employee who agreed that she received $10.00 per week in gratuities? Could they then take the full allowance of 35¢ times the number of hours that she worked in spite of the fact she only get $10.00 for a week?

MR. BALDWIN: Yes, she must sign a statement for the amount above $10.00.

If they want to deduct 35¢ and it is more than $10.00 they would have to sign a statement that she received at least 35¢ an hour in addition to that.

COMMISSIONER BLUMENTHAL: She should not do that if she had not received it.

MR. BALDWIN: There are three types of forms, one for part time employee, one for full time employees and one for the one who received more than $10.00 or $15.00 and signs for 35¢ or 25¢ whatever the amount might be between the two. I don’t think we should change any writing. We are looking for the intent.
MR. BALWIN, continued

If the composition tests that were put forward when the accused were present, it is not to be inferred that.

JUDGE MALHERBE: You would like to know what the feeling here is.

COMMISSIONER MICHIE: I will tell you frankly, Judge, I suppose that these residents people came to see me. I was talking to them, and it seems there was some basis to their position. If I interpreted it to the way I felt it ought to be interpreted on the basis of what they told me, it would seem to me it would leave me open to an attack from the other side. They might say it doesn't mean that we don't care what the residents people say, we think you have made the wrong thing. If the board tells me, "This is what we intended," this is the way it ought to be interpreted; I feel reasonably free to interpret it in that way. That is the real reason why you were called together. At this point I have a mandate from you people to interpret it in this fashion.

MR. BALWIN: Was that a unanimous vote? (According to the previous vote on page 33)

JUDGE MALHERBE: There were certain men who didn't vote. All who voted were in favor of it. I don't say again.

MR. BALWIN: It is now clear, sir.

JUDGE MALHERBE: All in favor raised their right hand. (All vote "aye")

MR. BALWIN: Let me not agree with it any more.

COMMISSIONER ADKINS: That is all, Judge. I am very grateful.

JUDGE MALHERBE: I think we can consider ourselves at liberty to go.

Meeting adjourned: 11:00 a.m.
Minimum Fair Wage Rates for Women, Minor & Adult Males Employed in the Restaurant Occupation

Wage Rates for Male

Full-time

Not less than $25.00 per week of 40 to 48 hours

Part-time

Not less than $0.70 per hour for working time of less than 40 hours weekly.

Overtime

Not less than $0.90 per hour for all hours worked in excess of 48 weekly.

Service Employees

Full-time

Not less than $25.00 per week of 40 to 48 hours.

Part-time

Not less than $0.70 per hour for working time of less than 40 hours weekly.

Overtime

Not less than $0.90 per hour for all hours worked in excess of 48 weekly.

In addition to the applicable minimum cash wage, an employee working five hours or less on any day shall receive one meal on each day. An employee working more than five hours shall receive two meals on each day. All meals are not furnished as provided herein, the employee shall be paid $1.00 for each meal not furnished.

Gratuities

In no event shall gratuities from patrons be counted as part of the minimum wage.

Exceptions to Full Time Work

The minimum weekly wage rates provided above for full time employees shall not be reduced for any employee in any week except in the following cases:

(a) New employees who shall have been hired after the beginning of the week, and employees whose employment shall have been terminated before the end of the week.

(b) Occasional voluntary absence of a full time worker.

In cases (a) and (b) the basic minimum weekly wage may be prorated on an hourly basis for that week. The hourly rate of a full time employee shall be computed by dividing the employee’s weekly wage by the number of hours between forty and forty-eight that constitutes his regular work week.

Diversified Employment

If service and non-service duties of an employee are interchanged, and the duties are definitely segregated and recorded, the appropriate hourly rate or prorated weekly rate for each type of work may be used.
If service and non-service duties are interchanged, but cannot be definitely segregated or are not recorded, the non-service rate is to be applied for each period in which the work is diversified.

44 & 45 ADDITIONAL DAILY WAGE. $1.00 in addition to the applicable minimum wage shall be paid to any employee for whom the spread of hours exceeds twelve. The term "spread of hours" means the total time between the beginning and ending of the work day, including both working and non-working time.

44 & 46 MINIMUM DAILY EARNINGS GUARANTEED. An employee who by reason of inactivity of the employer reports for duty on any day whether or not assigned to actual work shall be paid at least $5.00 for that day unless conditions of the existing contract, the service agreement, the collective bargaining agreement, or the practice agreed upon by the employer shall occur and shall be established to the satisfaction of the Connecticut Department of Labor.

44 & 46 LODGING. Lodging shall mean living accommodations which are adequate, sanitary, and sanitary. Employees shall not be required to share a bed. When lodging is furnished by the employer, as part of the minimum wage, they shall not be evaluated in excess of the following:

- Room occupied alone: $6.00 per week
- Room shared: $5.00 per week

No allowance shall be made for lodging covering a period of less than a full week except in cases where the full time employee is hired after the beginning of the week or advantage of a full time employee is terminated before the end of the week.

44 EMPLOYMENT. If an employer, as a condition of employment, requires a service employee to wear a uniform or part of a uniform of a distinctive style or color other than a plain white or a black dress, such uniform shall be supplied and laundered by the employer at no cost to the employee. All non-service employees shall have available uniforms provided by the employer at no cost to the employee.

45 EMPLOYMENT. If an employer, as a condition of employment, requires a service employee to wear a uniform or part of a uniform of a distinctive style or color other than a plain white or a black dress, such uniform shall be supplied and laundered by the employer at no cost to the employee. All non-service employees shall have available uniforms provided by the employer at no cost to the employee.

44 & 45 LODGING. The minimum wage rates established herein shall not apply to those specially licensed as handicapped workers, or apprentices or journeymen under an apprenticeship program approved by the Connecticut Department of Labor. The minimum wage rates established herein shall not apply to those specially licensed as handicapped workers, or apprentices or journeymen under an apprenticeship program approved by the Connecticut Department of Labor.

ADMINISTRATIVE REGULATIONS

44 & 45 USE OF UNIFORMS. All time shall be reckoned on the shortest unit of time.

44 & 45 USE OF UNIFORMS. All time shall be reckoned on the shortest unit of time.
Any employee who is required or permitted to travel from one establishment to another after the beginning or before the close of the work day, shall be compensated for travel time at the same rate as for working time, and shall be reimbursed for cost of transportation.

No person whose earning capacity has been impaired shall be paid at less than the minimum wage until a special license issued in accordance with the provisions of Section 379 C. of the General Statutes, Revised 1969, has been obtained by the employer from the Connecticut Department of Labor.

The provisions of this order shall apply to any worker in a restaurant occupation for the entire work period, unless in the course of his employment he is engaged in the activity of an occupation covered by law or by another wage order and the time as agent is segregated and recorded.

Deductions from wages due or to become due by reason of the employer's personal services are prohibited by statute. (Section 75A, Section 61)

No employee shall be required to work more than five consecutive hours after reporting for work without a meal period of not less than thirty minutes. On-duty meal period will be permitted only when the nature of the work prevents an employee from being relieved of all duties, and each on-duty meal period shall be counted as hours worked.

The employer shall keep at the place of employment, for a period of three years, accurate and legible records in ink, for each employee as follows:
1. Name;
2. Address;
3. Working certificates as proof of age for minor employees (16 to 18 years);
4. Occupations;
5. Daily and weekly hours worked, showing the beginning and ending hours of each work period;
6. Total daily or weekly basic wage;
7. Overtime wage as a separate item from basic wage;
8. Total additions to or deductions from wages paid each pay period;
9. Total wages paid each pay period;
10. Statements signed by employer as to gratuities received as called for in definition of service employees.

The employer shall keep at the place of employment, for a period of three years, accurate and legible records in ink, for each employee as follows:
1. Name;
2. Address;
3. Occupation;
4. Daily and weekly hours worked, showing the beginning and ending hours of each work period;
5. Total daily or weekly basic wage;
6. Overtime wage as a separate item from basic wage;
7. Total additions to or deductions from wages paid each pay period;
8. Statements signed by employees as to gratuities received as called for in definition of service employees.

The term "restaurant occupation" shall include any activity concerned with the preparation and serving of food or beverage for human consumption to the public, to employees, to members, to guests of members, or to paying guests; in any restaurant establishment as hereinafter defined. For the purpose of this wage order, it shall include in addition to the activities of persons directly or indirectly concerned with the actual preparation and serving of food or beverage, all supplementary and incidental

Definitions
activities, including but not limited to the work of waiters, hotel waiters, telephone operators, check room employees, cigarette girls, cleaners, males, elevator operators, office workers, waiters, and all similar activities whatsoever, when performed in connection with any restaurant establishment. These employees may be excluded if the major part of their duties are devoted to work unrelated to the restaurant establishment as herein defined.

For the purposes of this order, the term "restaurant occupation" shall not include the following:

(a) Housemen and entertainers not also employed in other restaurant occupations in the establishment.

(b) Nurses and student nurses in hospitals, convalescent homes, nurseries, sanatoriums, recognized or licensed by the State Health Department and persons engaged in serving meals to patients therein unless also employed in a related restaurant occupation.

(c) An executive who meets each of the following requirements:

1. Receives a minimum salary of $50.00 per week.

2. Has as her or his primary duty the management of the enterprise in which employed, or a customarily recognized department or sub-division thereof.

3. Customarily and regularly directs the work of two or more other employees therein.

4. Has authority to hire and discharge other employees, or make suggestions and recommendations as to hiring, promotion, compensation, discipline and dismissal, or any other change of status of other employees in positions of particular weight.

5. Devotes at least 50% of the hours worked to activities which are directly and closely related to the performance of exempt work.

Activities of an educational, religious or non-profit organization where the services rendered are usually on a voluntary basis and where the employer-employee relationship does not exist.

A "Restaurant Establishment" shall include that place or part thereof where, for compensation, food or beverages for human consumption is prepared or served in the premises or elsewhere, through such services as tea lunch, caterers, banquet, special service, table or counter service, or cafeterias, whether such establishment is operated as the principal business of the employer, or as a department or unit of another business or, in connection with institutions such as manufacturing establishments or other places of employment, clubs, hospitals, convalescent homes, sanatoriums, asylums, schools and colleges, camps, civic institutions, army here and overseas homes or tourist homes serving five or more guests per meal.
RESEARCHER. An employer shall mean any person who enters into an employment agreement with an employee.

Restaurant: The term ‘restaurant’ shall mean any establishment that is primarily engaged in preparing and serving food and drink to customers for consumption on the premises.

Employee: The term ‘employee’ means any person who is employed by an employer.

Prohibitions: No employer shall engage in any of the following practices:

1. Paying an employee a wage that is less than the minimum wage.
2. Treating an employee in a manner that would cause the employee to be subjected to an unreasonably hostile or offensive working environment.
3. Firing or retaliating against an employee for exercising the right to organize, bargain, or be represented by a labor union.
4. Refusing to negotiate in good faith with a labor union that represents the employees in a bargaining unit.

Obligations: All employers shall:

1. Pay employees at least the minimum wage.
2. Maintain a workplace free from discrimination.
3. Comply with all applicable labor laws.
4. Bargain in good faith with a labor union.

Penalties: Any employer who violates any of these provisions shall be subject to fines and other remedies as provided by law.

Date: [Signature]

[Employer's Name]