



# WAFFLE HOUSE WAGE THEFT POLL

September 2024



**STRATEGIC  
ORGANIZING  
CENTER**

## Waffle House Wage Theft Poll September 2024

The SOC conducted a survey of Waffle House servers, grill operators/cooks, and other non-managerial staff across the United States to gather insights into their experiences with wage theft between July 24 and August 26, 2024. Respondents were recruited through advertisements on Facebook and Instagram.

A total of 488 workers participated in the survey, with 52% self-identified as servers, 43% as grill operators or cooks, and 5% as other non-managerial employees.<sup>1</sup> The survey successfully collected responses from at least one worker in each of the 25 states where Waffle House operates, with the largest share of respondents from Georgia and Florida, which accounted for 22% and 16% of all responses, respectively.

The racial breakdown of respondents was as follows: 71% self-identified as white, 19% as Black, 4% as Asian, 4% as two or more races, and 2% as “other.” Additionally, 31% of the respondents self-identified as Hispanic. Non-Hispanic whites made up 46% of all respondents.

### POLL ANALYSIS

#### **Ninety percent of Waffle House worker respondents have experienced at least one form of wage theft in the last year.**

We asked Waffle House workers whether they had experienced various forms of wage theft, including working off the clock, not being paid for all hours worked, not receiving the overtime pay rate of time-and-a-half, and getting tipped wages for non-tipped work. A staggering nine out of ten workers – 90% – reported experiencing at least one form of wage theft in the last year. In addition, more than three of four (77%) reported experiencing two or more forms of wage theft, and 49% reported that they experienced three or more forms of wage theft in the last year. Table 1 shows the rates of wage theft for each violation that Waffle House workers were asked about.

**Table 1: Share of Workers Reporting Forms of Wage Theft (n=488)**

Wage and hour violation category	Share of respondents
Been required to perform job tasks before clocking in or after clocking out	75%
Not been paid for all hours worked or all tasks performed	72%
Paid tipped wage for non-tipped work	58%
Did not always receive overtime pay when working 40+ hours per week	21%

The most common form of wage theft reported was being required to perform job tasks before clocking in or after clocking out: 75% of respondents indicated they had experienced this issue in the last year. Moreover, Waffle House management's practice of asking employees to work off the clock occurs with an alarming frequency. Of those who reported working off the clock, 78% said this was not a rare occurrence, with a shocking 41% of respondents reporting that they were asked to do so "frequently" or "all the time." Similarly, 72% of employees reported not being paid for all hours worked or for all tasks performed, with 67% indicating that it was not a rare occurrence and 31% of respondents indicating that this occurred "frequently" or "all the time."

Sixty-six percent of respondents reported working more than forty hours per week at least once in the past year. Of those, about one-third (32%) reported that they did not always receive overtime pay of time-and-a-half for each time. Of those that reported not being paid the overtime pay rate, 83% reported that it occurred on more than just "a few" of their shifts, while a further 39% reported not receiving the overtime pay rate for most or every shift. Workers that reported not receiving overtime pay rate accounted for 21% of all survey respondents.

In addition to the wage theft practices described above, sixty-two percent of respondents, including both servers and cooks, reported having to pay out of pocket for cash register shortages at least once during the previous year. Among those, 36% said they were required to pay for shortages "frequently" or "all the time." Unless state law applies, the FLSA generally allows employers to charge employees for cash register shortages so long as the affected employee still earns at least the minimum wage.<sup>ii</sup> Half of the respondents were from states that regulated this practice, including states that generally do not allow employers to make deductions for cash register shortages or states that allow the practice only with the employee's written consent, agreement, or knowledge of the policy requiring payment for such shortages.<sup>iii</sup>

### **Nearly two-thirds of Waffle House servers reported being paid tipped wages for non-tipped work.**

Sixty-five percent of respondents who identified themselves as servers reported being paid tipped wages for non-tipped work. The federal tipped minimum wage is \$2.13 per hour.<sup>iv</sup> Among these respondents, 55% indicated performing non-tipped tasks during most or every shift. In spite of how regularly this occurs, less than half of the servers (44%) reported that their managers tracked their time spent on non-tipped work. Furthermore, only about half (48%) of Waffle House respondents reported that their managers explained the difference between tipped and non-tipped work. Federal law requires employers to inform its tipped-wage employees about various tip credit requirements.<sup>v</sup> If employers do not inform workers of duties that are part of the tipped occupation and those duties that are not of tipped occupation, workers may be more likely to experience wage theft.

### **Only ten percent of workers consume every meal that is deducted from their paycheck.**

Waffle House has a policy of deducting a "meal credit" from workers' pay per shift, regardless of whether they consume a meal or not; workers report that at least \$3 is deducted for meals per shift.<sup>vi</sup> Alarmingly, only 10% of respondents reported consuming the meals for which they were charged every time they were charged. Workers cited various reasons for not eating the meal despite being charged for it. The most common reasons were not having a break to eat, cited by 45% of workers, and dietary restrictions that did not align with the available meal options, cited by 41% of workers.

## CONCLUSION

Given the prevalence of wage theft, it is no surprise that half (51%) of all Waffle House workers surveyed reported feeling cheated when receiving their paycheck, a sentiment that was particularly strong among servers, with 57% expressing this feeling. Further, 83% of Waffle House workers reported that they would support forming a union, with 46% reporting that they would “definitely” support forming a union.

## NOTES

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<sup>i</sup> This analysis is based on responses from individuals who reported currently working at Waffle House or having worked there at any time in 2024. Additionally, these respondents indicated that they did not have the authority to hire, fire, or discipline employees and had answered at least one question on wage theft.

<sup>ii</sup> Department of Labor. “Fact Sheet #16: Deductions From Wages for Uniforms and Other Facilities Under the Fair Labor Standards Act (FLSA).” Revised July 2009. <https://www.dol.gov/agencies/whd/fact-sheets/16-flsa-wage-deductions>

MyHRCounsel. “When Can I Deduct from my Employee’s Paycheck? Part 3: Deductions for Cash Register Shortages and Property Damage.” December 10, 2019. <https://myhrcounsel.com/2019-12-10-when-can-i-deduct-from-my-employees-paycheck-part-3-deductions-for-cash-register-shortages-and-property-damage/>

<sup>iii</sup> The states where Waffle House operates that do not permit employers to deduct cash register shortages, or limit the practice, such as when the employee’s willful negligence or if they are found guilty of theft, include Colorado, Delaware, Indiana, Kansas, Kentucky, Louisiana, and Pennsylvania. States where Waffle House operates that allow the practice but only with the employee’s written consent, agreement or knowledge of the policy include Arizona, Illinois, Maryland, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. Federal law applies to all other states where Waffle House operates. Avvo. “Paycheck Deductions for Employee Mistakes: Federal and State Pay Docking Laws.” March 2, 2020. <https://www.avvo.com/legal-library/employment-law/paycheck-deductions-for-employee-mistakes-federal-and-state-pay-docking-laws.html>

<sup>iv</sup> Department of Labor. “2023 – Minimum Wages for Tipped Employees.” <https://www.dol.gov/agencies/whd/state/minimum-wage/tipped/2023>

<sup>v</sup> 29 U.S.C. §203(m)(2)(A).

<sup>vi</sup> Exhibit A - Waffle House’s Meal and Meal Credit Policy (“Meal Credit Policy”), Page 3. “Re: Petition to the U.S. Department of Labor to determine the “Reasonable Cost” or “Fair Value” of Waffle House’s Meal Credit Deduction.” March 25, 2024. Available at: <https://big.assets.huffingtonpost.com/athena/files/2024/03/25/6601847ce4b08460c3e7d685.pdf>