

1 ENGROSSED SENATE
2 BILL NO. 638

By: Daniels of the Senate
and
Bashore of the House

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6 An Act relating to the Unfair Sales Act; amending 15
7 O.S. 2021, Section 598.2, which relates to
8 definitions; modifying definitions; updating
9 statutory language and references; and providing an
10 effective date.

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 15 O.S. 2021, Section 598.2, is
13 amended to read as follows:

14 Section 598.2. For the purposes of the Unfair Sales Act:

15 ~~(a) The term "cost~~ 1. "Cost to the retailer" means the invoice
16 cost of the merchandise to the retailer or the replacement cost of
17 the merchandise to the retailer, whichever is the lower; less all
18 trade discounts except customary discounts for cash; to which shall
19 be added ~~(1)~~ (a) freight charges not otherwise included in the
20 invoice cost or the replacement cost of the merchandise as herein
21 set forth, and ~~(2)~~ (b) cartage to the retail outlet if done or paid
22 for the retailer, which cartage cost, in the absence of proof of a
23 lesser cost, shall be deemed to be three-fourths of one percent (3/4
24 of 1%) of the cost to the retailer as herein defined after adding

1 thereto freight charges but before adding thereto cartage, and
2 taxes, ~~(3)~~ (c) all state and federal taxes not heretofore added
3 to the cost as such, and ~~(4)~~ a markup to cover a proportionate part
4 of the cost of doing business, which markup, in the absence of proof
5 of a lesser cost, shall be six percent (6%) of the cost of the
6 retailer as herein set forth after adding thereto freight charges
7 and cartage but before adding thereto a markup;

8 ~~(b)~~ The term "cost 2. "Cost to the wholesaler" means the
9 invoice cost of the merchandise to the wholesaler, or the
10 replacement cost of the merchandise to the wholesaler, whichever is
11 the lower; less all trade discounts except customary discounts for
12 cash; to which shall be added, ~~(1)~~ (a) freight charges, not
13 otherwise included in the invoice cost or the replacement cost of
14 the merchandise as herein set forth, and ~~(2)~~ (b) cartage to the
15 retail outlet if done or paid for by the wholesaler, which cartage
16 cost, in the absence of proof of a lesser cost, shall be deemed to
17 be three-fourths of one percent ($3/4$ of 1%) of the cost to the
18 wholesaler as herein set forth after adding thereto freight charges
19 but before adding thereto cartage, and taxes, and ~~(3)~~ (c) all state
20 and federal taxes not heretofore added to the cost as such;

21 ~~(c)~~ The term "replacement 3. "Replacement costs" means the
22 cost per unit at which the merchandise sold or offered for sale
23 could have been bought by the seller at any time within thirty (30)
24 days prior to the date of sale or the date upon which it is offered

1 for sale by the seller if bought in the same quantity or quantities
2 as the seller's last purchase of said merchandise~~7~~.

3 ~~(d)~~ When one or more items advertised, offered for sale, or
4 sold with one or more other items at a combined price, or
5 advertised, offered as a gift, or given with the sale of one or more
6 other items, each and all of the items shall be deemed to be
7 advertised, offered for sale, or sold, and the price of each item
8 named shall be governed by the provisions of paragraphs ~~(a) or (b)~~ 1
9 or 2 of this section, respectively;

10 ~~(e)~~ ~~The terms "sell~~ 4. "Retailer" means and includes every
11 person, partnership, corporation or association engaged in the
12 business of making sales at retail within this state; provided,
13 that, in the case of a person, partnership, corporation or
14 association engaged in the business of making both sales at retail
15 and sales at wholesale, such term shall be applied only to the
16 retail portion of such business;

17 5. "Sell at retail", "sales at retail", and "retail sale" mean
18 and include any transfer for valuable consideration made in the
19 ordinary course of trade or in the usual prosecution of the seller's
20 business of title to tangible personal property to the purchaser for
21 consumption or use other than resale or further processing or
22 manufacturing. ~~The above~~ Such terms shall include any transfer of
23 ~~such~~ property where title is retained by the seller as security for
24 the payment of the purchase price;

1 ~~(f) The terms "sell~~ 6. "Sell at wholesale", "sales at
2 wholesale", and "wholesale sales" mean and include any transfer for
3 a valuable consideration made in the ordinary course of trade or the
4 usual conduct of the seller's business, of title to tangible
5 personal property to the purchaser for purposes of resale or further
6 processing or manufacturing. ~~The above~~ Such terms shall include any
7 transfer of such property where title is retained by the seller as
8 security for the payment of the purchase price; and

9 ~~(g) The term "retailer" means and includes every person,
10 partnership, corporation or association engaged in the business of
11 making sales at retail within this state; provided that, in the case
12 of a person, partnership, corporation or association engaged in the
13 business of making both sales at retail and sales at wholesale, such
14 term shall be applied only to the retail portion of such business;~~

15 ~~(h) The term "wholesaler"~~ 7. "Wholesaler" means and includes
16 every person, partnership, corporation, or association engaged in
17 the business of making sales at wholesale within this state;
18 provided, that, in the case of a person, partnership, corporation or
19 association engaged in the business of making both sales at
20 wholesale and sales at retail, such term shall be applied only to
21 the wholesale portion of such business.

22 SECTION 2. This act shall become effective November 1, 2025.
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1 Passed the Senate the 25th day of March, 2025.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2025.

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9 Presiding Officer of the House
10 of Representatives