

1 ENGROSSED HOUSE
2 BILL NO. 1024

By: Bashore, Lepak, Hays,
Osburn, Burns, Menz, and
Munson of the House

3
4 and

Daniels of the Senate

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8 An Act relating to the Unfair Sales Act; amending 15
9 O.S. 2021, Sections 598.2 and 598.3, which relate to
10 the Unfair Sales Act; modifying definitions; defining
11 terms; modifying provisions related to unreasonably
12 low profit margins; and providing an effective date.

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

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

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

17 ~~(a) The~~

18 1. a. Except as provided for in subparagraph b of this
19 paragraph, the term "cost to the retailer" means the
20 invoice cost of the merchandise to the retailer or the
21 replacement cost of the merchandise to the retailer,
22 whichever is the lower; less all trade discounts
23 except customary discounts for cash; to which shall be
24 added (1) freight charges not otherwise included in

1 the invoice cost or the replacement cost of the
2 merchandise as herein set forth, and (2) cartage to
3 the retail outlet if done or paid for the retailer,
4 which cartage cost, in the absence of proof of a
5 lesser cost, shall be deemed to be three-fourths of
6 one percent ($3/4$ of 1%) of the cost to the retailer as
7 herein defined after adding thereto freight charges
8 but before adding thereto cartage, and taxes, and (3)
9 all state and federal taxes not heretofore added to
10 the cost as such, ~~and (4) a markup to cover a~~
11 ~~proportionate part of the cost of doing business,~~
12 ~~which markup, in the absence of proof of a lesser~~
13 ~~cost, shall be six percent (6%) of the cost of the~~
14 ~~retailer as herein set forth after adding thereto~~
15 ~~freight charges and cartage but before adding thereto~~
16 ~~a markup.~~

17 b. For gasoline and diesel fuel retailers, the term "cost
18 to the retailer" means the invoice cost of the
19 merchandise to the retailer or the replacement cost of
20 the merchandise to the retailer, whichever is the
21 lower; less all trade discounts except customary
22 discounts for cash; to which shall be added (1)
23 freight charges not otherwise included in the invoice
24 cost or the replacement cost of the merchandise as

1 herein set forth, and (2) cartage to the retail outlet
2 if done or paid for the retailer, which cartage cost,
3 in the absence of proof of a lesser cost, shall be
4 deemed to be three-fourths of one percent (3/4 of 1%)
5 of the cost to the retailer as herein defined after
6 adding thereto freight charges but before adding
7 thereto cartage, and taxes, and (3) all state and
8 federal taxes not heretofore added to the cost as
9 such, and (4) a markup to cover a proportionate part
10 of the cost of doing business, which markup, in the
11 absence of proof of a lesser cost, shall be six
12 percent (6%) of the cost of the retailer as herein set
13 forth after adding thereto freight charges and cartage
14 but before adding thereto a markup;

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

1 thereto freight charges but before adding thereto cartage, and
2 taxes, and (3) all state and federal taxes not heretofore added to
3 the cost as such;

4 ~~(e)~~ 3. The term "replacement costs" means the cost per unit at
5 which the merchandise sold or offered for sale could have been
6 bought by the seller at any time within thirty (30) days prior to
7 the date of sale or the date upon which it is offered for sale by
8 the seller if bought in the same quantity or quantities as the
9 seller's last purchase of said merchandise;

10 ~~(d)~~ 4. When one or more items advertised, offered for sale, or
11 sold with one or more other items at a combined price, or
12 advertised, offered as a gift, or given with the sale of one or more
13 other items, each and all of the items shall be deemed to be
14 advertised, offered for sale, or sold, and the price of each item
15 named shall be governed by the provisions of ~~paragraphs (a)~~
16 paragraph 1 or ~~(b)~~ 2 of this section, respectively;

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

1 ~~(f)~~ 6. The terms "sell at wholesale", "sales at wholesale", and
2 "wholesale sales" mean and include any transfer for a valuable
3 consideration made in the ordinary course of trade or the usual
4 conduct of the seller's business, of title to tangible personal
5 property to the purchaser for purposes of resale or further
6 processing or manufacturing. The above 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;

9 ~~(g)~~ 7. 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)~~ 8. The term "wholesaler" means and includes every person,
16 partnership, corporation, or association engaged in the business of
17 making sales at wholesale within this state; provided that, in the
18 case of a person, partnership, corporation or association engaged in
19 the business of making both sales at wholesale and sales at retail,
20 such term shall be applied only to the wholesale portion of such
21 business; and

22 9. The term "unreasonably low profit margin" means a seller of
23 goods has established a price for an item of tangible personal
24 property which is offered for sale at the cost to the seller as

1 otherwise defined by this act, but with an increment in price above
2 such cost that is intended to have the effect of eliminating market
3 competition for the sale of such item of tangible personal property
4 by any other seller within a reasonable geographic area where the
5 item is offered for sale by such seller or which has the actual
6 effect of eliminating market competition for the sale of such item
7 of tangible personal property by any other seller within a
8 reasonable geographic area where the item is offered for sale.

9 SECTION 2. AMENDATORY 15 O.S. 2021, Section 598.3, is
10 amended to read as follows:

11 Section 598.3. It is hereby declared that any advertising,
12 offer to sell, or sale of any merchandise, either by retailers or
13 wholesalers, at less than cost or at an unreasonably low profit
14 margin as defined in the Unfair Sales Act with the intent and
15 purpose of inducing the purchase of other merchandise or of unfairly
16 diverting trade from a competitor or otherwise injuring a
17 competitor, impair and prevent fair competition, injure public
18 welfare, are unfair competition and contrary to public policy and
19 the policy of the Unfair Sales Act, where the result of such
20 advertising, offer or sale is to tend to deceive any purchaser or
21 prospective purchaser, or to substantially lessen competition, or to
22 unreasonably restrain trade, or to tend to create a monopoly in any
23 line of commerce.

24 SECTION 3. This act shall become effective November 1, 2025.

1 Passed the House of Representatives the 10th day of March, 2025.

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4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the _____ day of _____, 2025.

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8 _____
9 Presiding Officer of the Senate