

1 **SENATE FLOOR VERSION**

2 February 13, 2025

3 SENATE BILL NO. 638

By: Daniels

4  
5  
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.

23       COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND INSURANCE  
24       February 13, 2025 - DO PASS