

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 60th Legislature (2025)

4 COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 638

5 By: Daniels of the Senate

6 and

7 Bashore, **Moore, Eaves,** and
8 **Banning** of the House

10 COMMITTEE SUBSTITUTE

11 An Act relating to the Unfair Sales Act; amending 15
12 O.S. 2021, Section 598.2, which relates to
13 definitions; modifying definitions; updating
14 statutory language and references; amending 15 O.S.
15 2021, Section 598.4, which relates to violations of
16 act; creating penalty for retailers who violate act
17 when selling motor fuel; and providing an effective
18 date.

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

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

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

23 (a) ~~The term "cost 1.~~ "Cost to the retailer" means the invoice
24 cost of the merchandise to the retailer or the replacement cost of
 the merchandise to the retailer, whichever is the lower; less all

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

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

1 wholesaler as herein set forth after adding thereto freight charges
2 but before adding thereto cartage, and taxes, and ~~(3)~~ (c) all state
3 and federal taxes not heretofore added to the cost as such;

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

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

17 ~~(e) The terms "sell 4. "Retailer" means and includes every~~
18 person, partnership, corporation, or association engaged in the
19 business of making sales at retail within this state; provided,
20 that, in the case of a person, partnership, corporation, or
21 association engaged in the business of making both sales at retail
22 and sales at wholesale, such term shall be applied only to the
23 retail portion of such business;

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

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

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

23 (h) ~~The term "wholesaler"~~ 7. "Wholesaler" means and includes
24 every person, partnership, corporation, or association engaged in

1 the business of making sales at wholesale within this state;
2 provided, that, in the case of a person, partnership, corporation,
3 or association engaged in the business of making both sales at
4 wholesale and sales at retail, such term shall be applied only to
5 the wholesale portion of such business.

6 SECTION 2. AMENDATORY 15 O.S. 2021, Section 598.4, is
7 amended to read as follows:

8 Section 598.4. A. Any retailer who shall, in contravention of
9 the policy of the Unfair Sales Act, advertise, offer to sell or sell
10 at retail any item of merchandise at less than cost to the retailer
11 as defined in this act, or any wholesaler who shall, in
12 contravention of the policy of the Unfair Sales Act, advertise,
13 offer to sell, or sell at wholesale any item of merchandise at less
14 than cost to the wholesaler as defined in the Unfair Sales Act,
15 shall be guilty of a misdemeanor and upon conviction, shall be
16 punished by a fine of not more than Five Hundred Dollars (\$500.00).

17 B. Any retailer who shall, in contravention of the policy of
18 the Unfair Sales Act, advertise, offer to sell or sell at retail
19 motor fuel as defined in paragraph 44 of Section 500.3 of Title 68,
20 at less than cost to the retailer as defined in this act or any
21 wholesaler, who shall in contravention of the policy of the Unfair
22 Sales Act, advertise, offer to sell, or sell at wholesale motor fuel
23 as defined in paragraph 44 of Section 500.3 of Title 68, at less
24 than cost to the wholesaler as defined in the Unfair Sales Act,

1 shall be guilty of a misdemeanor and upon conviction, shall be
2 punished by a fine of not more than One Thousand Dollars
3 (\$1,000.00).

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

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6 COMMITTEE REPORT BY: COMMITTEE ON COMMERCE AND ECONOMIC DEVELOPMENT
OVERSIGHT, dated 04/23/2025 - DO PASS, As Amended and Coauthored.
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