

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 COMMITTEE SUBSTITUTE  
FOR  
4 HOUSE BILL NO. 1024

By: Bashore

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8 COMMITTEE SUBSTITUTE

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

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

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

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

20 ~~(a) The~~

21 1. a. Except as provided for in subparagraph b of this  
paragraph, the term "cost to the retailer" means the  
invoice cost of the merchandise to the retailer or the  
replacement cost of the merchandise to the retailer,

1 whichever is the lower; less all trade discounts  
2 except customary discounts for cash; to which shall be  
3 added (1) freight charges not otherwise included in  
4 the invoice cost or the replacement cost of the  
5 merchandise as herein set forth, and (2) cartage to  
6 the retail outlet if done or paid for the retailer,  
7 which cartage cost, in the absence of proof of a  
8 lesser cost, shall be deemed to be three-fourths of  
9 one percent ( $3/4$  of 1%) of the cost to the retailer as  
10 herein defined after adding thereto freight charges  
11 but before adding thereto cartage, and taxes, and (3)  
12 all state and federal taxes not heretofore added to  
13 the cost as such, and (4) a ~~markup to cover a~~  
14 ~~proportionate part of the cost of doing business,~~  
15 ~~which markup, in the absence of proof of a lesser~~  
16 ~~cost, shall be six percent (6%) of the cost of the~~  
17 ~~retailer as herein set forth after adding thereto~~  
18 ~~freight charges and cartage but before adding thereto~~  
19 ~~a markup;~~  
20 b. For gasoline and diesel fuel retailers, the term "cost  
21 to the retailer" means the invoice cost of the  
22 merchandise to the retailer or the replacement cost of  
23 the merchandise to the retailer, whichever is the  
24 lower; less all trade discounts except customary

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

18       (b) 2. The term "cost to the wholesaler" means the invoice cost  
19       of the merchandise to the wholesaler, or the replacement cost of the  
20       merchandise to the wholesaler, whichever is the lower; less all  
21       trade discounts except customary discounts for cash; to which shall  
22       be added, (1) freight charges, not otherwise included in the invoice  
23       cost or the replacement cost of the merchandise as herein set forth,  
24       and (2) cartage to the retail outlet if done or paid for by the

1 wholesaler, which cartage cost, in the absence of proof of a lesser  
2 cost, shall be deemed to be three-fourths of one percent (3/4 of 1%)  
3 of the cost to the wholesaler as herein set forth after adding  
4 thereto freight charges but before adding thereto cartage, and  
5 taxes, and (3) all state and federal taxes not heretofore added to  
6 the cost as such;

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

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

20 ~~(e)~~ 5. The terms "sell at retail", "sales at retail", and  
21 "retail sale" mean and include any transfer for valuable  
22 consideration made in the ordinary course of trade or in the usual  
23 prosecution of the seller's business of title to tangible personal  
24 property to the purchaser for consumption or use other than resale

1 or further processing or manufacturing. The above terms shall  
2 include any transfer of such property where title is retained by the  
3 seller as security for the payment of the purchase price;

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

12       (g) 7. The term "retailer" means and includes every person,  
13 partnership, corporation or association engaged in the business of  
14 making sales at retail within this state; provided that, in the case  
15 of a person, partnership, corporation or association engaged in the  
16 business of making both sales at retail and sales at wholesale, such  
17 term shall be applied only to the retail portion of such business;

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

1       9. The term "unreasonably low profit margin" means that a  
2       seller of goods has established a price for an item of tangible  
3       personal property which is offered for sale at the cost to the  
4       seller as otherwise defined by this act, but with an increment in  
5       price above such cost that is intended to have the effect of  
6       eliminating market competition for the sale of such item of tangible  
7       personal property by any other seller within a reasonable geographic  
8       area where the item is offered for sale by such seller or which has  
9       the actual effect of eliminating market competition for the sale of  
10      such item of tangible personal property by any other seller within a  
11      reasonable geographic area where the item is offered for sale.

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

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

1 | unreasonably restrain trade, or to tend to create a monopoly in any  
2 | line of commerce.

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

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