

1 STATE OF OKLAHOMA

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

3 SENATE BILL 638

By: Daniels

7 AS INTRODUCED

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

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

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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 term "cost 1.~~ "Cost to the retailer" means the invoice  
18 cost of the merchandise to the retailer or the replacement cost of  
19 the merchandise to the retailer, whichever is the lower; less all  
20 trade discounts except customary discounts for cash; to which shall  
21 be added ~~(1)~~ (a) freight charges not otherwise included in the  
22 invoice cost or the replacement cost of the merchandise as herein  
23 set forth, and ~~(2)~~ (b) cartage to the retail outlet if done or paid  
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1 for the retailer, which cartage cost, in the absence of proof of a  
2 lesser cost, shall be deemed to be three-fourths of one percent (3/4  
3 of 1%) of the cost to the retailer as herein defined after adding  
4 thereto freight charges but before adding thereto cartage, and  
5 taxes, ~~(3) and (c)~~ all state and federal taxes not heretofore added  
6 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~~  
~~of a lesser cost, shall be six percent (6%) of the cost of the~~  
~~retailer as herein set forth after adding thereto freight charges~~  
~~and cartage but before adding thereto a markup;~~

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

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

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

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

21           5. "Sell at retail", "sales at retail", and "retail sale" mean  
22 and include any transfer for valuable consideration made in the  
23 ordinary course of trade or in the usual prosecution of the seller's  
24 business of title to tangible personal property to the purchaser for

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

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

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

19 (h) ~~The term "wholesaler"~~ 7. "Wholesaler" means and includes  
20 every person, partnership, corporation, or association engaged in  
21 the business of making sales at wholesale within this state;  
22 provided, that, in the case of a person, partnership, corporation or  
23 association engaged in the business of making both sales at

1 wholesale and sales at retail, such term shall be applied only to  
2 the wholesale portion of such business.

3 SECTION 2. This act shall become effective November 1, 2025.

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