

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 638

By: Daniels

AS INTRODUCED

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

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

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

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

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

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)~~ (c) all state and federal taxes not heretofore added
6 to the cost as such, and ~~(4)~~ a markup to cover a proportionate part
7 of the cost of doing business, which markup, in the absence of proof
8 of a lesser cost, shall be six percent (6%) of the cost of the
9 retailer as herein set forth after adding thereto freight charges
10 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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