

# An Act

ENROLLED SENATE  
BILL NO. 638

By: Daniels, Frix, and Woods of  
the Senate

and

Bashore, Moore, Eaves,  
Banning, Pfeiffer, Turner,  
Osburn, Lepak, and  
Rosecrants of the House

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

SUBJECT: Unfair Sales Act

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 for the retailer, which cartage cost, in the absence of proof of a lesser cost, shall be deemed to be three-fourths of one percent (3/4

of 1%) of the cost to the retailer as herein defined after adding thereto freight charges but before adding thereto cartage, and taxes, ~~(3) and (c)~~ all state and federal taxes not heretofore added 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;~~

~~(b) The term "cost~~ 2. "Cost to the wholesaler" means the invoice cost of the merchandise to the wholesaler, or the replacement cost of the merchandise to the wholesaler, 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 for by the wholesaler, which cartage cost, in the absence of proof of a lesser cost, shall be deemed to be three-fourths of one percent ( $3/4$  of 1%) of the cost to the wholesaler as herein set forth after adding thereto freight charges but before adding thereto cartage, and taxes, and ~~(3) (c)~~ all state and federal taxes not heretofore added to the cost as such;

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

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

~~(e) The terms "sell~~ 4. "Retailer" means and includes every person, partnership, corporation, or association engaged in the business of making sales at retail within this state; provided, that, in the case of a person, partnership, corporation, or

association engaged in the business of making both sales at retail and sales at wholesale, such term shall be applied only to the retail portion of such business;

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

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

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

~~(h) The term "wholesaler"~~ 7. "Wholesaler" means and includes every person, partnership, corporation, or association engaged in the business of making sales at wholesale within this state; provided, that, in the case of a person, partnership, corporation, or association engaged in the business of making both sales at wholesale and sales at retail, such term shall be applied only to the wholesale portion of such business.

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

Section 598.4. A. Any retailer who shall, in contravention of the policy of the Unfair Sales Act, advertise, offer to sell or sell

at retail any item of merchandise at less than cost to the retailer as defined in this act, ~~or~~ or any wholesaler who shall, in contravention of the policy of the Unfair Sales Act, advertise, offer to sell, or sell at wholesale any item of merchandise at less than cost to the wholesaler as defined in the Unfair Sales Act, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00).

B. Any retailer who shall, in contravention of the policy of the Unfair Sales Act, advertise, offer to sell or sell at retail motor fuel as defined in paragraph 44 of Section 500.3 of Title 68 of the Oklahoma Statutes at less than cost to the retailer as defined in this act, or any wholesaler, who shall in contravention of the policy of the Unfair Sales Act, advertise, offer to sell, or sell at wholesale motor fuel as defined in paragraph 44 of Section 500.3 of Title 68 of the Oklahoma Statutes at less than cost to the wholesaler as defined in the Unfair Sales Act, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00).

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

Passed the Senate the 15th day of May, 2025.

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Presiding Officer of the Senate

Passed the House of Representatives the 29th day of April, 2025.

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Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_