

**OPINION
67-254**

March 3, 1967 (OPINION)

Mr. Jack D. Paul

Executive Secretary

Trade Commission

RE: State - Trade Commission - Survey

Your letter to this office dated March 1, 1967, requests our opinion as to whether or not the Trade Commission has authority under Section 51-10-10 of the 1965 Supplement to the North Dakota Century Code to conduct a "cost of doing business" survey upon the petition of ten or more wholesalers.

The first sentence of Section 51-10-10 of the 1965 Supplement to the North Dakota Century Code reads as follows:

* * * The North Dakota trade commission is hereby empowered and directed whenever application therefor shall have been made by ten or more persons, firms or corporations within any particular retail trade or business to establish the cost survey provided for in section 51-10-09. * * *."

Definitions of words which are used in Chapter 51-10 of the North Dakota Century Code are found in the first section of the chapter. Subsections 5 and 6 of Section 51-10-01, respectively, of the North Dakota Century Code set forth the definitions of "retailers" and "wholesalers" and read as follows:

5. 'Retailers' shall mean and include every person, partnership, corporation, or association engaged in the business of making sales at retail within this state. In the case of a person, partnership, corporation, or association engaged in the business of making sales at retail and sales at wholesale, such terms shall be applied only to the retail portion of such business; and
6. 'Wholesaler' shall mean and include every person, partnership, corporation, or association engaged in the business of making sales at wholesale within this state. 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 terms shall be applied only to the wholesale portion of such business."

Therefore, it is our opinion that the North Dakota Trade Commission does not have authority to conduct a "cost of doing business" survey for a wholesaler operation upon the petition of ten or more wholesalers, persons, firms or corporations.

HELGI JOHANNESON

Attorney General