

KROGER CO  
Form S-8  
December 13, 2012

As filed with the Securities and Exchange

Commission on December 13, 2012

Registration No. 333-

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

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**FORM S-8**

**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

**THE KROGER CO.**

(Exact name of registrant as specified in its charter)

**Ohio**

(State or other jurisdiction of  
incorporation or organization)

**31-0345740**

(I.R.S. Employer  
Identification No.)

**1014 Vine Street, Cincinnati, Ohio**  
(Address of Principal Executive Offices)

**45202**  
(Zip Code)

**Dillon Companies, Inc. Employees Profit Sharing Plan**

(Full title of Plan)

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**Paul W. Heldman**

**Executive Vice President, Secretary and General Counsel**

**The Kroger Co.**

**1014 Vine Street**

**Cincinnati, Ohio 45202**

(Name and address of agent for service)

**(513) 762-4000**

(Telephone number, including area code, of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if smaller reporting company)

Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

<b>Title Of Securities To Be Registered</b>	<b>Amount To be Registered</b>	<b>Proposed Maximum Offering Price Per Share(1)</b>	<b>Proposed Maximum Aggregate Offering Price(1)</b>	<b>Amount of Registration Fee</b>
Common Shares \$1 Par Value	5,000,000 shares	\$ 26.74	\$ 133,700,000	\$ 18,236.68

(1) Estimated solely for the purpose of calculating the registration fee pursuant to Securities Act Rule 457(c), on the basis of the average of the high and low sale prices of the Registrant's Common Shares on the New York Stock Exchange on December 10, 2012, which date is within 5 business days prior to the date of the filing of this Registration Statement.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

The Registrant is registering additional securities under the Plan covered hereby for which a Registration Statement on Form S-8, bearing Registration No. 333-152605, currently is effective, and therefore, pursuant to General Instruction E. of Form S-8, the Registrant elects to incorporate by reference the contents of such Registration Statement which constitute information required in the Registration Statement.

SIGNATURES

The Registrant. Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Cincinnati, State of Ohio, on December 13, 2012.

THE KROGER CO.

By */s/ David B. Dillon*  
David B. Dillon,  
Chairman of the Board and  
Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated, on December 13, 2012.

<b>Signature</b>	<b>Title</b>
<i>/s/ David B. Dillon</i> David B. Dillon	Chairman of the Board, Chief Executive Officer and Director (principal executive officer)
<i>/s/ J. Michael Schlotman</i> J. Michael Schlotman	Chief Financial Officer (principal financial officer)
<i>/s/ M. Elizabeth Van Oflen</i> M. Elizabeth Van Oflen	Vice President and Corporate Controller (principal accounting officer)
<i>/s/ Reuben V. Anderson</i> Reuben V. Anderson	Director
<i>/s/ Robert D. Beyer</i> Robert D. Beyer	Director
<i>/s/ Susan J. Kropf</i> Susan J. Kropf	Director
<i>/s/ John T. LaMacchia</i> John T. LaMacchia	Director
<i>/s/ David B. Lewis</i> David B. Lewis	Director
<i>/s/ W. Rodney McMullen</i> W. Rodney McMullen	President, Chief Operating Officer and Director
<i>/s/ Jorge P. Montoya</i> Jorge P. Montoya	Director
<i>/s/ Clyde R. Moore</i>	Director

Clyde R. Moore

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/s/ Susan M. Phillips Director  
Susan M. Phillips

/s/ Steven R. Rogel Director  
Steven R. Rogel

/s/ James A. Runde Director  
James A. Runde

/s/ Ronald L. Sargent Director  
Ronald L. Sargent

/s/ Bobby S. Shackouls Director  
Bobby S. Shackouls

By: \*/s/ Bruce M. Gack  
Bruce M. Gack  
Attorney-in-fact

INDEX OF EXHIBITS

Exhibit 5.1	Opinion of Paul W. Heldman, Esquire, including his consent. Filed herewith.
Exhibit 5.2	IRS Determination Letter. Filed herewith.
Exhibit 23.1	Consent of PricewaterhouseCoopers LLP, Independent Accountants. Filed herewith.
Exhibit 23.2	Consent of Paul W. Heldman, Esquire. Contained in the opinion filed as Exhibit 5.1 hereto.
Exhibit 24	Powers of Attorney of certain officers and directors of Kroger. Filed herewith.