

KROGER CO  
Form S-8  
March 28, 2012

As filed with the Securities and Exchange

Commission on March 28, 2012

Registration No. 333-

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**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)

**The Kroger Co. 401(k) Retirement Savings Account 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

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

Accelerated filer

Smaller reporting company

CALCULATION OF REGISTRATION FEE

			<b>Proposed</b>		<b>Proposed</b>	
			<b>Maximum</b>		<b>Maximum</b>	
<b>Title of</b>	<b>Amount</b>		<b>Offering</b>		<b>Aggregate</b>	<b>Amount of</b>
<b>Securities to</b>	<b>to be</b>		<b>Price</b>		<b>Offering</b>	<b>Registration</b>
<b>be Registered</b>	<b>Registered</b>		<b>Per Share(1)</b>		<b>Price(1)</b>	<b>Fee</b>

(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 March 22, 2012, which date is within 5 business days prior to the date of the filing of this Registration Statement.

(2) In addition, pursuant to Rule 416(c) under the Securities Act of 1933, this Registration Statement also covers an indeterminate amount of interests to be offered or sold pursuant to the employee benefit plan described herein.



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. 333-138152 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 March 28, 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 March 28, 2012.

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

Clyde R. Moore



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The Plan. Pursuant to the requirements of the Securities Act of 1933, the trustees (or other persons who administer the employee benefit plan) have 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 March 28, 2012.

THE KROGER CO. 401(K) RETIREMENT SAVINGS ACCOUNT PLAN  
ADMINISTRATIVE COMMITTEE

By: /s/ Paul Heldman  
Name: Paul Heldman  
Title: Chairman of the Administrative Committee

By: /s/ Richard A. Manka  
Name: Richard A. Manka  
Title: Member of the Administrative Committee

By: /s/ J. Michael Schlotman  
Name: J. Michael Schlotman  
Title: Member of the Administrative Committee

By: /s/ R. Pete Williams  
Name: R. Pete Williams  
Title: Member of the Administrative Committee

By: /s/ Theresa Monti  
Name: Theresa Monti  
Title: Member of the Administrative Committee

INDEX OF EXHIBITS

Exhibit 5.1	Opinion of Paul W. Heldman, Esquire, including his consent. Filed herewith.
Exhibit 23.1	Consent of PricewaterhouseCoopers LLP, Independent Accountants. Filed herewith.
Exhibit 23.2	Consent of Clark, Shaefer, Hackett & Co., Independent Accountants. Filed herewith.
Exhibit 23.3	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.