

# DOLLAR GENERAL CORP

## FORM S-8

(Securities Registration: Employee Benefit Plan)

Filed 03/16/04

Address	100 MISSION RIDGE GOODLETTSVILLE, TN, 37072
Telephone	6158554000
CIK	0000029534
Symbol	DG
SIC Code	5331 - Retail-Variety Stores
Industry	Discount Stores
Sector	Consumer Cyclical
Fiscal Year	02/02

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

FORM S-8

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

DOLLAR GENERAL CORPORATION

(Exact Name of Registrant as Specified in Its Charter)

Tennessee

(State or Other  
Jurisdiction of  
Incorporation)

61-0502302

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

100 Mission Ridge  
Goodlettsville, Tennessee 37072

(Address and Zip Code of Principal Executive Offices)

EMPLOYMENT AGREEMENT WITH DAVID A. PERDUE

(Full Title of the Plan)

Susan S. Lanigan  
Senior Vice President, General Counsel and Corporate Secretary  
Dollar General Corporation  
100 Mission Ridge  
Goodlettsville, Tennessee 37072  
(615) 855-4000

(Name, Address and Telephone Number for Agent of Service)

Copy to:  
Gary M. Brown  
Dinsmore & Shohl LLP  
Bank of America Plaza, Suite 1100  
414 Union Street  
Nashville, Tennessee 37219  
(615) 313-3325

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered <sup>(1)</sup>	Proposed Maximum Offering Price per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock	500,000 Shares <sup>(2)</sup>	\$12.68 <sup>(3)</sup>	\$6,340,000	\$803.28

- (1) This registration statement on Form S-8 (this "Registration Statement") registers 500,000 shares of common stock (the "Common Stock"), of Dollar General Corporation (the "Company") issuable pursuant to an Employment Agreement between the Company and David A. Perdue, effective as of April 2, 2003 (the "Employment Agreement"). The Employment Agreement provides for certain equity awards, including the grant of an option to purchase 500,000 shares of Common Stock (the "Option"). In addition, this Registration Statement shall also cover any additional shares of Common Stock which become issuable under the Employment Agreement with respect to the Option by reason of any stock dividend, stock split, recapitalization or any other similar transaction effected without the receipt of consideration which results in an increase in the number of the Company's outstanding shares of Common Stock.
- (2) Represents 500,000 shares of Common Stock subject to the Option.
- (3) Calculated in accordance with Rule 457(h) under the Securities Act of 1933, as amended (the "Securities Act"), solely for the purpose of determining the registration fee. Calculation is based on the exercise price of the Option.

EXPLANATORY NOTE

Dollar General Corporation (the "Company" or "Registrant") has prepared this Registration Statement in accordance with the requirements of Form S-8 under the Securities Act of 1933, as amended (the "Securities Act") to register shares of its Common Stock (the "Shares"), issuable to David A. Perdue, the Chairman and Chief Executive Officer of the Company, pursuant to the terms of the Employment Agreement between the Company and David A. Perdue, effective as of April 2, 2003 (the "Employment Agreement").

**PART I**  
**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

The documents containing the information specified in Part I of this Registration Statement on Form S-8 will be sent or given to the participant in the plan as specified under Rule 428(b)(1) under the Securities Act. Such documents are not required to be, and are not being, filed by the Company with the Securities and Exchange Commission (the "Commission"), either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. Such documents, together with the documents incorporated by reference herein pursuant to Item 3 of Part II of this Registration Statement on Form S-8, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

**PART II**  
**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 3. Incorporation of Documents by Reference.**

The following documents filed by the Company with the Commission are incorporated herein by reference:

- (a) The Company's Annual Report on Form 10-K for the fiscal year ended January 30, 2004 (the "2003 Fiscal Year End"), filed with the Securities and Exchange Commission on March 16, 2004;
- (b) All other reports filed by the Company pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") since the 2003 Fiscal Year End; and
- (c) The description of the Company's Common Stock that is contained in the Company's Current Report on Form 8-K filed June 8, 1998 as amended by a filing dated June 11, 1998, including any amendment or report filed for the purpose of updating such description.

All reports and other documents filed by the Company pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, after the date hereof and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be part hereof from the date of filing of such reports and documents. Any statement contained in a document incorporated or deemed to be incorporated herein by reference shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

**Item 4. Description of Securities.**

Not applicable.

**Item 5. Interests of Named Experts and Counsel.**

Not applicable.

**Item 6. Indemnification of Directors and Officers.**

The Tennessee Business Corporation Act (“TBCA”) allows a Tennessee corporation’s charter to contain a provision eliminating or limiting, with certain exceptions, the personal liability of a director to the corporation or its shareholders for monetary damages for breach of the director’s fiduciary duty as a director. Under the TBCA, a Tennessee business corporation may not eliminate or limit director monetary liability for (i) breaches of the director’s duty of loyalty to the corporation or its shareholders; (ii) acts or omissions not in good faith or involving intentional misconduct or a knowing violation of law; or (iii) unlawful dividends, stock repurchases or redemptions. This provision also may not limit a director’s liability for violation of, or otherwise relieve a corporation or its directors from the necessity of complying with, federal or state securities laws, or affect the availability of non-monetary remedies such as injunctive relief or rescission. The Registrant’s charter contains a provision stating that directors shall not be personally liable for monetary damage to the corporation or its shareholders, except to the extent required by the TBCA.

The TBCA provides that a corporation may indemnify any of its directors and officers against liability incurred in connection with a proceeding if (a) such person acted in good faith; (b) in the case of conduct in an official capacity with the corporation, he reasonably believed such conduct was in the corporation’s best interests; (c) in all other cases, he reasonably believed that his conduct was at least not opposed to the best interests of the corporation; and (d) in connection with any criminal proceeding, such person had no reasonable cause to believe his conduct was unlawful. In actions brought by or in the right of the corporation, however, the TBCA provides that no indemnification may be made if the director or officer was adjudged to be liable to the corporation. The TBCA also provides that in connection with any proceeding charging improper personal benefit to an officer or director, no indemnification may be made if such officer or director is adjudged liable on the basis that such personal benefit was improperly received. In cases where the director or officer is wholly successful, on the merits or otherwise, in the defense of any proceeding instigated because of his or her status as a director or officer of a corporation, the TBCA mandates that the corporation indemnify the director or officer against reasonable expenses incurred in the proceeding.

The TBCA provides that a court of competent jurisdiction, unless the corporation’s charter provides otherwise, upon application, may order that an officer or director be indemnified for reasonable expenses if, in consideration of all relevant circumstances, the court determines that such individual is fairly and reasonably entitled to indemnification, notwithstanding the fact that (a) such officer or director was adjudged liable to the corporation in a proceeding by or in the right of the corporation; (b) such officer or director was adjudged liable on the basis that personal benefit was improperly received by him; or (c) such officer or director breached his duty of care to the corporation.

The Registrant’s Charter and Bylaws provide that the Registrant shall indemnify its directors and officers to the fullest extent permitted by applicable law. The Registrant’s Bylaws provide further that the Registrant shall advance expenses to each director and officer of the Registrant to the full extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted. Under the Registrant’s Charter and Bylaws, such indemnification and advancement of expenses provisions are not exclusive of any other right that a director or officer may have or acquire both as to action in his or her official capacity and as to action in another capacity. The Registrant believes that its Charter and Bylaw provisions are necessary to attract and retain qualified persons as directors and officers.

The Registrant has in effect a directors’ and officers’ liability insurance policy that provides coverage for its directors and officers. Under this policy, the insurer agrees to pay, subject to certain exclusions, for any claim made against a director or officer of the Registrant for a wrongful act by such director or officer, but only if and to the extent such director or officer becomes legally obligated to pay such claim, or incurs certain costs in defending such claim.

**Item 7. Exemption from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

The exhibits listed in the Exhibit Index beginning on page 8 hereof are filed as part of or incorporated into this Registration Statement.

**Item 9. Undertakings.**

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% in the maximum aggregate offering price set forth in the “Calculation of Registration Fee” table in the effective Registration Statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

*Provided, however*, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant’s annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan’s annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the Registration Statement shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

**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 Goodlettsville, State of Tennessee, on this 16<sup>th</sup> day of March, 2004.

**DOLLAR GENERAL CORPORATION**



by this reference).

- 4.4 Dollar General Corporation Bylaws (filed as Exhibit 3 to the Company's Quarterly Report on Form 10-Q for the quarter ended August 2, 2002, filed with the Commission on August 28, 2002 and incorporated herein by this reference).
- 5 Opinion of Dinsmore & Shohl LLP.
- 23.1 Consent of Dinsmore & Shohl LLP (included in Exhibit 5).
- 23.2 Consent of Ernst & Young LLP.
- 24 Power of Attorney (included on the signature page hereto).

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March 16, 2004

Dollar General Corporation  
100 Mission Ridge  
Goodlettsville, Tennessee 37072

Ladies and Gentlemen:

This opinion is rendered for use in connection with the Registration Statement on Form S-8 (the "Registration Statement"), relating to the Employment Agreement with David A. Perdue (the "Agreement"), to be filed by Dollar General Corporation, a Tennessee corporation (the "Company") with the Securities and Exchange Commission on or about March 16, 2004. The Registration Statement relates to 500,000 shares (the "Shares") of the Company's Common Stock \$.50 par value that will be issued upon the exercise of an option (the "Option") granted to Mr. Perdue pursuant to the Agreement.

We hereby consent to the filing of this opinion as Exhibits 5 and 23.1 to the Registration Statement and to the reference to our name in the Registration Statement.

As counsel to the Company, we have examined and are familiar with originals or copies, certified or otherwise identified to our satisfaction, of such statutes, documents, corporate records, certificates of public officials, and other instruments as we have deemed necessary for the purpose of this opinion, including the Company's Charter and Bylaws and the record of proceedings of the shareholders and directors of the Company.

Based upon the foregoing, we are of the opinion that the Shares that may be issued and sold from time to time in accordance with the Option and the Agreement have been duly authorized for issuance and will, when issued, sold and paid for in accordance with the Option and the Agreement, be legally issued, fully paid and non-assessable.

Very truly yours,

DINSMORE & SHOHL LLP

/s/ Dinsmore & Shohl LLP

CONSENT OF INDEPENDENT AUDITORS

We consent to the incorporation by reference in this Registration Statement on Form S-8 pertaining to the Dollar General Corporation Employment Agreement with David A. Perdue of our report dated March 11, 2004, with respect to the consolidated financial statements of Dollar General Corporation included in its Annual Report (Form 10-K) for the year ended January 30, 2004, filed with the Securities and Exchange Commission.

*/s/ Ernst & Young LLP*

Nashville, Tennessee  
March 11, 2004