

STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 89- 27

The Honorable Edward F. Reilly  
State Senator, Third District  
State Capitol, Room 255-E  
Topeka, Kansas 66612

Re: Crimes and Punishments--Trading Stamps--Trading  
Stamps or Similar Devices Redeemable in Merchandise  
or Other Thing of Value Prohibited

Synopsis: The practice of "cross-store couponing" whereby two  
or more retailers offer coupons redeemable for each  
other's products sold in the usual course of  
business is excepted from the trading stamp act.  
Cited herein: K.S.A. 21-2801; 21-2803.

\* \* \*

Dear Senator Reilly:

You have requested our opinion as to whether "cross-store  
couponing" violates the Kansas trading stamp act, K.S.A.  
21-2801 et seq. This act generally prohibits furnishing,  
upon purchase of merchandise, coupons redeemable in cash,  
merchandise or other thing of value.

The practice of cross-store couponing involves the  
cooperation of two or more retailers in the same community  
offering coupons for discounts on one another's products. For  
example, retailer A will offer coupons to customers who  
purchase goods or services from retailer A. These coupons  
will be redeemable by retailer B for discounts on goods or  
services retailer B sells in its usual course of business. In  
turn, retailer B will offer, with the purchase of goods or

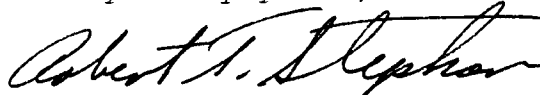
services from retailer B, coupons redeemable by retailer A for discounts on goods or services sold in the ordinary course of retailer A's business. Thus, each coupon offered will be redeemable by a retailer for products which the retailer normally sells in its usual course of business. This practice fits squarely within the exception to the trading stamp act found at K.S.A. 21-2803(b) which provides:

"This act shall not apply to any coupon, ticket, certificate, card or other similar device which is issued, distributed, furnished or redeemed:

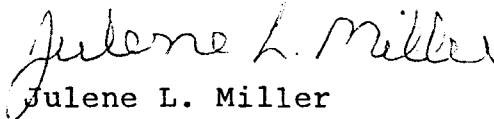
"(b) By a retailer, when such coupon, ticket, certificate, card or other similar device is redeemable by the retailer, with or without accompanying cash, for any product which the retailer normally sells in its usual course of business."  
(Emphasis added.)

As pointed out in your request letter, this office interpreted this provision in a previous opinion as allowing a similar practice. Attorney General Opinion No. 81-172. The trading stamp act has not been amended since the time that opinion was written. We therefore affirm its conclusion that this type of cross-store couponing is excepted from the provisions of the trading stamp act. See State v. Pepsi-Cola General Bottlers, Inc., 232 Kan. 843, 847 (1983); State v. American Savings Stamp Co., 194 Kan. 297, 300 (1965) (trading stamp act is penal in nature and must be strictly construed against the state).

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Julene L. Miller  
Deputy Attorney General