



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.

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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

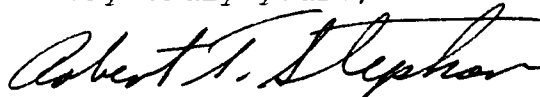
services from retailer B, coupons redeemable by retailer A for discounts on goods or services sold in the ordinary course of retailer A's business. Thus, each coupon offered will be redeemable by a retailer for products which the retailer normally sells in its usual course of business. This practice 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:

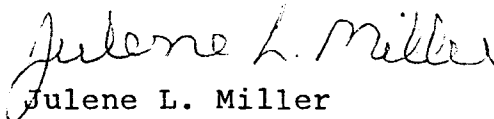
"(b) By a retailer, when such coupon, ticket, certificate, card or other similar device is redeemable by the retailer, with or without accompanying cash, for any product which the retailer normally sells in its usual course of business."
(Emphasis added.)

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