

HIBBETT SPORTING GOODS INC  
Form S-8  
June 30, 2005

As filed with the Securities and Exchange Commission on July 1, 2005  
Registration No. 333-\_\_\_\_\_

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM S-8**

REGISTRATION STATEMENT UNDER

THE SECURITIES ACT OF 1933

**HIBBETT SPORTING GOODS, INC.**

(Exact name of Registrant as specified in its charter)

**Delaware**

(State of other jurisdiction of  
Incorporation or organization)

**63-1074067**

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

**451 Industrial Lane**

**Birmingham, Alabama**  
(Address of Principal Executive Offices)

**35211**

(Zip Code)

**2005 EMPLOYEE STOCK PURCHASE PLAN**

(Full Title of the Plan)

**Gary A. Smith**

Chief Financial Officer

Hibbett Sporting Goods, Inc.

451 Industrial Lane

Birmingham, Alabama 35211

(Name and Address of Agent for Service)

**(205) 942-4292**

(Telephone Number, Including Area Code, of Agent for Service)

**Copy to:**

John S. Mitchell, Jr., Esq.

Williams Mullen Hofheimer Nusbaum, P.C.

1666 K Street, NW

Suite 1200

Washington, DC 20006

(202) 293-8117

**CALCULATION OF REGISTRATION FEE**

<b>Title of Each Class of Securities to be Registered</b>	<b>Amount to be Registered (1)</b>	<b>Proposed Maximum Offering Price Per Share (3)</b>	<b>Proposed Maximum Aggregate Offering Price (3)</b>	<b>Amount of Registration Fee</b>
Common Stock, par value \$.01 per share	-0- (2)	\$ 38.81	\$ 0	\$ 0 (2)

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- (1) In accordance with Rule 416 under the Securities Act of 1933, as amended, this registration statement shall cover any additional securities that may from time to time be offered or issued under the adjustment provisions of the employee benefit plan to prevent dilution resulting from stock splits, stock dividends or similar transactions pursuant to the 2005 Employee Stock Purchase Plan.
  - (2) Represents shares offered or to be offered under the 2005 Employee Stock Purchase Plan approved by Board of Directors on May 31, 2005 and by its shareholders on May 31, 2005. Does not include 139,251 shares of Common Stock previously registered on Registration Statement No. 333-21301 that may no longer be issued under the prior Employee Stock Purchase Plan together with any shares subject to awards previously granted under such plan that may be forfeited or cancelled which, upon forfeiture or cancellation, will be available for issuance under the 2005 Employee Stock Purchase Plan.
  - (3) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) and Rule 457(h) under the Securities Act of 1933, as amended, based upon the average of the reported high and low sale prices for a share of the Registrant's common stock, as reported on the NASDAQ National Market for June 29, 2005.
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### EXPLANATORY NOTES

(1) The Company hereby files this Registration Statement on Form S-8 with the Commission to register shares of Common Stock, \$.01 par value, offered or to be offered to participants under the 2005 Employee Stock Purchase Plan (the "Plan") of Hibbett Sporting Goods, Inc. (the "Company"), from time to time at prices determined by a committee of the Company's Board of Directors in accordance with the Plan. This registration statement also covers such indeterminate number of additional shares which may be offered and issued pursuant to the Plan to prevent dilution resulting from stock splits, stock dividends, recapitalizations or similar transactions.

(2) Under the terms of the Plan, shares of Common Stock formerly available for issuance ("Old Plan Shares") under the Hibbett Sporting Goods, Inc. Employee Stock Purchase Plan, as amended (which has been terminated) have become available for issuance under the Plan. The Old Plan Shares were previously registered on the Company's Registration Statements on Form S-8, Registration No. 333-21301, as amended. Such Registration Statements are incorporated herein by reference. The registration fee for the Old Plan Shares being carried forward has already been paid.

### PART II

#### INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

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

The following documents filed with the Commission by the Company pursuant to the Securities Exchange Act of 1934 (the Exchange Act ) are incorporated by reference herein:

- (a) The Registrant's Annual Report on Form 10-K for fiscal year ended January 29, 2005, filed April 14, 2005, as amended by the Company's Form 10-K/A filed on April 19, 2005;
- (b) The Registrant's Current Reports on Form 8-K, filed with the Commission on May 19 and June 8, 2005;
- (c) The Registrant's Quarterly Report on Form 10-Q for the period ended April 30, 2005, filed June 8, 2005;
- (d) All documents filed with the Commission by the Registrant pursuant to Section 13(a), 13(c), 14 and 15(d) of the Exchange Act subsequent to the date hereof and prior to the filing of a post-effective amendment which indicates that all securities offered herein have been sold or which deregisters all securities then remaining unsold; and
- (e) The description of the Registrant's Common Stock contained in the Registrant's Exchange Act registration statement on Form 8-A dated October 20, 1997, filed with the Commission pursuant to Section 12 of the Exchange Act, including any amendment thereto or report filed for the purpose of updating such description.

Any statement contained herein, or in a document all or a portion of which is incorporated or deemed to be incorporated by reference herein, 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 other 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.**

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The information required by this item is hereby incorporated herein by this reference to the Company's Registration on Form S-1 (Registration No. 333-36913), as amended, initially filed with the Commission on October 1, 1997.

### Item 7. Exemption from Registration Claimed.

Not applicable.

### Item 8. Exhibits.

The Exhibits to this registration statement are listed in the Index to Exhibits which immediately follows the signature pages hereto.

### 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;

(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 this 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 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(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)(ii) 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 with or furnished to the Commission by the Registrant pursuant to Section 13 or 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, 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)

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The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, that is incorporated by reference into this 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 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the indemnification

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provisions summarized in Item 6, 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 Securities 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 Securities Act and will be governed by the final adjudication of such issue.

### SIGNATURES

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 Birmingham, State of Alabama, on this 30th day of June, 2005.

HIBBETT SPORTING GOODS, INC.

By: /s/ Gary A. Smith  
Gary A. Smith  
Vice President and Chief Financial Officer

### POWER OF ATTORNEY

**KNOW ALL PERSONS BY THESE PRESENTS**, that each person whose signature appears below hereby constitutes and appoints Gary A. Smith as the undersigned's true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for the undersigned and in his name, place and stead, in any and all capacities (including the undersigned's capacity as a director and/or officer of Hibbett Sporting Goods, Inc.), to sign any or all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact

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full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully for all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact, or his or her substitute, acting alone, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the date indicated.

<b>Name</b>	<b>Title</b>	<b>Date</b>
/s/ Michael J. Newsome Michael J. Newsome	President, Chief Executive Officer and Chairman of the Board	June 30, 2005
/s/ Gary A. Smith Gary A. Smith	Vice President and Chief Financial Officer	June 30, 2005
/s/ Clyde B. Anderson Clyde B. Anderson	Director	June 30, 2005
/s/ Carl Kirkland Carl Kirkland	Director	June 30, 2005
/s/ Ralph T. Parks Ralph T. Parks	Director	June 30, 2005
/s/ Thomas A. Saunders, III	Director	June 30, 2005

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Thomas A. Saunders, III

/s/ Alton E. Yother Alton E. Yother	Director	June 30, 2005
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### INDEX OF EXHIBITS

**Exhibit  
Number**

**Description**

- \*4.1 Certificate of Incorporation of the Company (See Exhibit 3.1 to the Company's Annual Report on Form 10-K for the fiscal year ended February 1, 1997).
- \*4.2 By-Laws of the Company (See Exhibit 3.2 to the Company's Annual Report on Form 10-K for the fiscal year ended February 1, 1997).
- \*4.3 Form of Common Stock Certificate (See Exhibit 4.1 to Amendment No. 2 to Registration Statement on Form S-1 (Reg. No. 333-07023) of Hibbett Sporting Goods, Inc., filed on September 16, 1996).
- \*\*4.4 Hibbett Sporting Goods, Inc. 2005 Employee Stock Purchase Plan
- \*\*5.1 Opinion of Williams Mullen Hofheimer Nusbaum, P.C. regarding legality of shares being issued
- \*\*23.1 Consent of Independent Registered Public Accounting Firm
- \*\*23.2 Consent of Williams Mullen Hofheimer Nusbaum, P.C. (included in Exhibit 5.1)
- \*\*24.1 Power of Attorney (included on signature page to this Registration Statement)

\* Previously filed as an exhibit to the referenced filing, which is herein incorporated by reference.

\*\* Filed herewith.

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**Exhibit 4.4**

**HIBBETT SPORTING GOODS, INC.**

**2005 EMPLOYEE STOCK PURCHASE PLAN**

ARTICLE 1

GENERAL



1.1 *Purpose.* The Hibbett Sporting Goods, Inc. 2005 Employee Stock Purchase Plan ( Plan ) is intended to attract and retain employees of Hibbett Sporting Goods, Inc. and its wholly owned subsidiaries ( Company ) by providing them with an opportunity to purchase shares of stock in the Company. The Plan is intended to qualify as an employee stock purchase plan under Section 423 of the Internal Revenue Code of 1986, as amended, but is not intended to be subject to the Employee Retirement Income Security Act of 1974, as amended.

1.2 *Effective Date.* The Plan shall be effective on July 1, 2005.

## ARTICLE 2

### DEFINITIONS

For the purpose of this Plan, the following terms shall have the meaning set forth in this Article unless a different meaning is required by the context:

2.1 *Administrator.* The senior human resources officer of the Company or such other person as may be authorized from time to time pursuant to Section 3.4 hereof.

2.2 *Board.* Board of Directors of the Company.

2.3 *Code.* The Internal Revenue Code of 1986, as amended.

2.4 *Committee.* The committee appointed by the Board to administer the Plan as described in ARTICLE 2 of the Plan or if no such Committee is appointed, the entire Board.

2.5 *Common Stock.* The Common Stock \$0.01 per value of the Company or the number and kind of shares of stock or other securities into which such Common Stock may be changed in accordance with Section 10.6 of the Plan.

2.6 *Compensation.* Wages reported on Form W-2 before the deduction for elective deferrals to a Section 401(k) plan or Section 125 plan as those plans are defined in the Code.

2.7 *Eligible Recipient.* An Employee who satisfies the eligibility requirements contained in Section 4.1.

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2.8 *Employee.* A common law employee of the Hibbett Sporting Goods, Inc. or any Subsidiary Corporation.

2.9 *Entry Dates.* The first day on which an Employee may become a Participant as set forth in Section 4.2.

2.10 *Exchange Act.* The Securities Exchange Act of 1934, as amended.

2.11 *Fair Market Value.* The Fair Market Value of the Common Stock shall be:

2.11.1 If the Common Stock is listed or admitted to unlisted trading privileges on any national securities exchange or is not so listed or admitted but transactions in the Common Stock are reported on the NASDAQ National Market System, the last sale price of the Common Stock on such exchange or reported by the NASDAQ National Market System as of such date (or, if no shares were traded on such day, as of the next preceding day on which there was such a trade).

2.11.2 If the Common Stock is not so listed or admitted to unlisted trading privileges or reported on the NASDAQ National Market System, and bid and asked prices in the over-the-counter market are reported by the NASDAQ SmallCap Market® or the National Quotation Bureau,

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Inc. (or any comparable reporting service), the mean of the closing bid and asked prices as of such date, as so reported by the NASDAQ System, or, if not so reported thereon, as reported by the National Quotation Bureau, Inc. (or such comparable reporting service).

2.11.3 If the Common Stock is not so listed or admitted to unlisted trading privileges, or reported on the NASDAQ National Market System, and such bid and asked prices are not so reported, such price as the Committee determines in good faith in the exercise of its reasonable discretion.

2.12 *Offering.* An offer made by the Company to the Participants for the purchase of shares of Common Stock, on a quarterly basis commencing on the Offering Commencement Date and ending on the Offering Termination Date, through payroll deductions subject to the terms and conditions of the Plan. The Committee shall have the power to change the duration of Offerings (including the Offering Commencement Date) with respect to future Offerings without shareholder approval if such change is announced at least five (5) days prior to the scheduled beginning of the first Offering to be affected thereafter.

2.13 *Offering Commencement Date.* The first day of each calendar quarter.

2.14 *Offering Termination Date.* The last day of each calendar quarter.

2.15 *Option.* The right of an Eligible Recipient to purchase Common Stock under the Plan.

2.16 *Option Agreement.* The Agreement described in Section 4.5.

2.17 *Option Price.* The purchase price for each share of Common Stock shall be the lower of: (i) 85% of the Fair Market Value of the Common Stock on the Offering Commencement Date; or (ii) 85% of the Fair Market Value of the Common Stock on the Offering Termination Date.

2.18 *Participant.* An Eligible Recipient who has elected to participate in the Plan in accordance with procedures established herein.

2.19 *Subsidiary Corporation.* Any subsidiary corporation of the Company within the meaning of Section 424(f) of the Code.

### ARTICLE 3

#### PLAN ADMINISTRATION

3.1 *The Committee.* The Plan shall be administered by the Committee. Members of such a committee, if established, shall be appointed from time to time by the Board, shall serve at the pleasure of the Board and may resign at any time upon written notice to the Board. A majority of the members of such a committee shall constitute a quorum. Such a committee shall act by majority approval of the members, shall keep minutes of its meetings and shall provide copies of such minutes to the Board. Action of such a committee may be taken without a meeting if unanimous written consent is given. Copies of minutes of such a committee's meetings and of its actions by written consent shall be provided to the Board and kept with the corporate records of the Company.

3.2 *Requirements of the Exchange Act or the Code.* Notwithstanding Section 3.1 above, in the event that Rule 16b-3 of the Exchange Act or Section 162(m) of the Code or any successor provisions thereto provides specific requirements for the administrators of plans of this type, then the Plan shall only be administered by such body and in such a manner as shall comply with the applicable requirements of Rule 16b-3 and Section 162(m).

3.3 *Authority of the Committee.* Subject to the express provisions of the Plan, the Committee shall have plenary authority in its discretion to interpret and construe any and all provisions of the Plan, to adopt rules and regulations for administering the Plan, and to make all other determinations deemed necessary or advisable for administering the Plan. The Committee's determination in the foregoing matters shall be conclusive.

3.4 *Delegation by Committee.* Except to the extent prohibited by applicable law or the applicable rules of a stock exchange, the Committee may allocate all or any portion of its responsibilities and powers to any one or more of its members and may delegate all or any part of its responsibilities and powers to any person or persons selected by it. Any such allocation or delegation may be revoked by the

Committee at any time.

#### ARTICLE 4

#### ELIGIBILITY AND PARTICIPATION

4.1 *Conditions of Eligibility.* An Eligible Recipient is an Employee who (i) customarily works more than thirty (30) hours per week and (ii) has been employed by the Company and/or a Subsidiary Corporation for one (1) year.

4.2 *Effective Date of Participation.* An Eligible Recipient may become a Participant as of the first day of the January or the first day of July ( Entry Date ) next following the date on which the Employee met the eligibility requirements contained in Section 4.1, provided that the Eligible Recipient remains employed on the Entry Date.

4.3 *Election to Participate.* An Eligible Recipient may become a Participant by completing an Option Agreement, which includes the authorization for a payroll deduction, on the form, including an electronic format, provided by the Company and filing it with the Administrator on or before the date set by such officer, which date shall be prior to the Offering Commencement Date for which participation is sought. Properly authorized payroll deductions for a Participant shall commence on the applicable Offering Commencement Date and shall end when terminated by the terms of the Option Agreement or when terminated by the Participant as provided in ARTICLE 8.

4.4 *Restrictions on Participation.* Notwithstanding any provision of the Plan to the contrary, no Employee shall be granted an Option to participate in the Plan:

4.4.1 if, immediately after the grant, such Employee would own stock, and/or hold outstanding Options to purchase stock, possessing 5% or more of the total combined voting power or value of all classes of stock of the Company (for purposes of this paragraph, the rules of Section 424(d) of the Code shall apply in determining stock ownership of any employee); or

4.4.2 which permits an Employee's rights to purchase Common Stock under all employee stock purchase plans of the Company to accrue at a rate which exceeds \$25,000 in fair market value of the Common Stock (determined at the time such Option is granted) for each calendar year in which such Option is outstanding.

4.5 *Option Agreement.* Each Eligible Recipient shall receive an Option Agreement. The Option Agreement shall contain the terms for the purchase of Common Stock pursuant to the provisions of the Plan and the discretion of the Committee where applicable. The Option Agreement shall also contain authorization for the payroll deduction. An Eligible Recipient may only become a Participant upon the timely completion and return of the Option Agreement according to the terms contained therein.

ARTICLE 5

OFFERINGS AND OPTION GRANTS

5.1 *Duration of Offerings.* The Plan shall be implemented in a series of quarterly Offerings which shall continue until all shares of Common Stock reserved for this Plan have been issued to the Participants. Notwithstanding anything to the contrary, this Plan shall terminate and there shall be no further Offerings upon the earlier of: (1) the issuance of all shares reserved under Section 9.1 of Common Stock or (2) the end of the fortieth (40th) quarterly Offering.

5.2 *Number of Option Shares.* On each Offering Commencement Date, a Participant shall be granted an Option to purchase on each Offering Termination Date up to a number of shares of Common Stock of the Company determined by dividing such Participants accumulated payroll deductions as of the Offering Termination Date by the applicable Option Price; provided that in no event shall a Participant be permitted to purchase during each Offering more than 1,000 shares of Common Stock of the Company, and provided further that such purchase shall be subject to the limitations of Sections 4.4 and 10.1. The Committee may for future offerings, increase or decrease, in its absolute discretion, the maximum number of shares of Common Stock that a Participant may purchase during each Offering. Exercise of the Option shall occur as provided herein, unless the Participant has withdrawn pursuant to ARTICLE 8. The Option shall expire on the Offering Termination Date.

ARTICLE 6

PAYROLL DEDUCTIONS

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6.1 *Amount of Deduction.* Upon filing the Option Agreement, the Participant shall elect to have deductions made from his paycheck on each payday during the time he is a Participant in an Offering at the rate of 1, 2, 3, 4, 5, 6, 7, 8, 9 or 10% of his compensation as determined for each applicable paycheck.

6.2 *Participant's Account.* The Company shall establish a bookkeeping account for each Participant and all payroll deductions made for a Participant shall be credited to his account under the Plan.

6.3 *Changes in Payroll Deductions.* A Participant may discontinue his participation in the Plan as Provided in ARTICLE 8, but no other change can be made during an Offering and, specifically, a Participant may not alter the amount of his payroll deductions for that Offering.

ARTICLE 7

EXERCISE OF OPTION

7.1 *Automatic Exercise.* Unless a Participant gives written notice to the Company as hereinafter provided, his Option for the purchase of Common Stock with payroll deductions made during any Offering will be deemed to have been exercised automatically on the Offering Termination Date applicable to such Offering, for the purchase of the number of full shares of Common Stock which the accumulated payroll deductions in his account at that time will purchase at the applicable Option Price (but not in excess of the number of shares for which Options have been granted to the employee pursuant to Section 5.2) and any excess in his account at that time will be returned to him, except as provided in Section 7.3.

7.2 *Withdrawal of Account.* By written notice to the Administrator, at any time prior to the Offering Termination Date applicable to any Offering, a Participant may elect to withdraw all the accumulated payroll deductions in his account at such time.

7.3 *Fractional Shares.* Fractional shares will not be issued under the Plan and any accumulated payroll deductions which would have been used to purchase fractional shares shall, unless otherwise requested by the Participant, be held in the Participant's account for the purchase of Common Stock during the next Offering.

7.4 *Transferability of Option.* During a Participant's lifetime, Options held by such Participant shall be exercisable only by that Participant.

7.5 *Delivery of Stock.* Subject to Section 7.6 below, as promptly as practicable after the Offering Termination Date of each Offering, the Company shall arrange the delivery to each Participant, as appropriate, of a record of the shares purchased. The administrator may permit or require that such shares be deposited directly with a broker designated by such officer or to a designated agent of the Company, and the Administrator may utilize electronic or other automated methods of share transfer. Common Stock will be issued in the name of the Participant, or, if the Participant so directs by written notice to the Administrator prior to the Offering Termination Date applicable thereto, in the names of the Participant and one such other person as may be designated by the Participant, as joint tenants with rights of survivorship or as tenants by the entireties, to the extent permitted by applicable law. No Participant shall have any voting, dividend, or other shareholder rights with respect to shares of Common Stock subject to any Option granted under the Plan until such shares have been purchased and delivered to the Participant as provided in this Section 7.5.

7.6 *Restriction on Resale.* The Committee may require that shares purchased by a Participant pursuant to an Offering be held in escrow as provided in Section 7.6(a) and be subject to a holding period or repurchase right as provided in Section 7.6(b). The Committee may impose this requirement on any Offering and such requirement, if imposed, shall be imposed on all Options granted during such Offering.

(a) As promptly as practicable after each Exercise Date on which a purchase of shares occurs, the Committee or its delegate may instruct its transfer agent to prepare and deliver to the Administrator or its designee, one or more certificates representing the shares purchased upon exercise by each Participant in the Plan, which shall be held in escrow by the Company for the benefit of each such Participant until the expiration of the holding period and/or repurchase right described in Section 7.6(b) below. As promptly as practicable after the termination of such holding period or repurchase right, the Company shall deliver to each Participant each certificate held in escrow by the Company for which the holding period or repurchase right has so terminated.

(b) The Committee may, at its election, impose on any shares obtained under the Plan a holding period during which the sale, transfer or other disposition of such shares shall be prohibited, a right of first refusal to repurchase such shares if a Participant or former Participant proposes to dispose of such shares, or both. Such holding period or the duration of such repurchase right shall terminate no later than (i) two years after the date on which the option to purchase such share of Common Stock was granted, and (ii) one year after the Exercise Date on which the option to purchase such share of Common Stock was exercised. If a right of first of refusal is imposed, each Participant or former Participant must immediately deliver to the Administrator written notice of such proposed disposition. Upon receipt of such notice, the Company shall have the exclusive option, for a period of ten (10) days after receipt of such notice, to purchase such Common Stock for a price equal to the lesser of (i) the Purchase Price for such shares or (ii) the Fair Market Value of such Common Stock on the date of such repurchase. If the Company does not elect to exercise its option to purchase such Common Stock, then the Participant or former Participant may proceed with the proposed disposition.

(c) The Administrator shall notify all Eligible Recipients of the Committee's election to impose any holding period or repurchase rights under this Section 7.6 at least six (6) months in advance of any such imposition.

## ARTICLE 8

### WITHDRAWAL

8.1 *In General.* Under procedures established by the Committee, a Participant may withdraw all but not less than all the payroll deductions credited to his account and not yet used to exercise his or her Option under the Plan by submitting to the Administrator a notice of withdrawal in the form and manner prescribed by the Committee for such purpose. Unless otherwise determined by the Committee on a uniform and non-discriminatory basis, any election to withdraw from an Offering will be effective only with respect to the Offering Termination Dates that are at least five (5) business days after the properly completed election is received by the Administrator. All of the Participant's payroll deductions credited to his account shall be paid to such Participant as promptly as practicable after the effective date of his or her withdrawal and such Participant's Option for the Offering shall be automatically terminated, and no further payroll deductions for the purchase of shares shall be made for such Offering. Once a Participant has withdrawn from an Offering, the Participant may not re-enroll in the same Offering. Moreover, payroll deductions shall not resume at the beginning of the succeeding Offering unless the Participant re-enrolls in the Plan in accordance with provisions of Section 4.3.

8.2 *Effect on Subsequent Participation.* A Participant's withdrawal from any Offering will not have any effect upon his eligibility to participate in any succeeding Offering or in any similar plan which may hereafter be adopted by the Company.

8.3 *Termination of Employment.* Upon termination of the Participant's employment for any reason, including retirement (but excluding death while in the employ of the Company or any Subsidiary Corporation), the Participant shall be deemed to have elected to withdraw from the Plan and the payroll deductions credited to such Participant's account during the Offering but not yet used to exercise the Option shall be returned to such Participant or, in the case of his death, to the person or persons entitled thereto under Section 10.2, and such Participant's Option shall be automatically terminated.

8.4 *Termination of Employment Due to Death.* Upon termination of the Participant's employment because of his death, his beneficiary (as defined in Section 10.2) shall have the right to elect, by written notice give to the Administrator prior to the earlier of the Offering Termination Date or the expiration of a period of sixty (60) days commencing with the date of death of the Participant, either:

8.4.1 to withdraw all of the payroll deductions credited to the Participant's account under the Plan, or

8.4.2 to exercise the Participant's Option for the purchase of Common Stock on the Offering Termination Date next following the date of the Participant's death for the purchase of the number of full shares of Common Stock which the accumulated payroll deductions in the Participant's account at the date of the Participant's death will purchase at the applicable Option Price, and any excess in such account will be returned to said beneficiary, without interest.

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In the event that no such written notice of election shall be duly received by the treasurer of the Company, the beneficiary shall automatically be deemed to have elected, pursuant to paragraph 8.4.2, to exercise the Participant's Option.

## ARTICLE 9

### STOCK

9.1 *Maximum Shares.* The maximum number of shares of Common Stock which shall be issued under the Plan, subject to adjustment upon changes in capitalization of the Company as provided in Section 10.6 shall be equal to the sum of (i) the amount of any shares of Common Stock available for future awards under any prior employee stock purchase plan of the Company (the "Prior Plans") as of the Effective date; and (ii) any shares of Common Stock that are represented by options granted under any Prior Plans which are forfeited, expired or are canceled without delivery of shares of Common Stock or which for any reason result in the forfeiture of the shares of Common Stock back to the Company. If the total number of shares of Common Stock for which Options are exercised are exercised on any Offering Termination Date in accordance with ARTICLE 5 exceeds the maximum number of shares reserved for this Plan, the Company shall make a pro rata allocation of the shares of Common Stock available for delivery and distribution in as nearly a uniform manner as shall be practicable and as it shall determine to be equitable, and the balance of payroll deductions credited to the account of each Participant under the Plan shall be returned to him as promptly as possible.

9.2 *Participant's Interest in Common Stock.* The Participant will have no interest in the Common Stock covered by his Option until such Option has been exercised on the applicable Offering Termination Date.

## ARTICLE 10

### MISCELLANEOUS



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10.1 *Compliance with Applicable Laws.* The Plan, the grant and exercise of Options to purchase shares under the Plan, and the Company's obligation to sell and deliver shares upon the exercise of Options to purchase shares shall be subject to compliance with all applicable federal, state and foreign laws, rules and regulations and the requirements of any stock exchange on which the shares may be listed. If the Company receives a determination from the Internal Revenue Service that the provisions of Section 7.6 adversely affect the plan's qualification under Section 423 of the Code, then Section 7.6 shall be deemed null and void or the Company may amend Section 7.6 in a manner acceptable to the Company that preserves qualification under Section 423 of the Code.

10.2 *Designation of Beneficiary.* The designated beneficiary pursuant to a qualified plan (as described in Section 401(a) of the Code) maintained by the Company shall be the designated beneficiary for the Plan, unless a Participant files a written designation of a beneficiary pursuant to this Plan. Such designation of beneficiary may be changed by the Participant at any time by written notice to the Administrator. Upon the death of a Participant and upon receipt by the Company of proof of identity and existence at the Participant's death of a beneficiary validly designated by him under the Plan, the Company shall deliver such Common Stock and/or cash to such beneficiary. In the event of the death of a Participant and in the absence of a beneficiary validly designated under the Plan who is living at the time of such Participant's death, the Company shall deliver such Common Stock and/or cash to the executor or administrator of the estate of the Participant, or if no such executor or administrator has been appointed (to the knowledge of the Company), the Company, in its discretion, may deliver such Common Stock and/or cash to the spouse or to any one or more dependents of the Participant as the Company may designate. No beneficiary shall, prior to the death of the Participant by whom he has been designated, acquire any interest in the stock or cash credited to the Participant under the Plan.

10.3 *Transferability.* Neither payroll deductions credited to a Participant's account nor any rights with regard to the exercise of an Option or to receive Common Stock under the Plan may be assigned, transferred, pledged, or otherwise disposed of in any way by the Participant other than by will or the laws of descent and distribution. Any such attempted assignment, transfer, pledge or other disposition shall be without effect, except that the Company may treat such act as an election to withdraw funds in accordance with Section 7.2.

10.4 *Use of Funds.* Any payroll deductions received or held by the Company under this Plan may be used by the Company for any corporate purpose and the Company shall not be obligated to segregate such payroll deductions.

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10.5 *Interest.* No interest will be paid or allowed on any money paid into the Plan or credited to the account of any Participant.

10.6 *Adjustment Upon Changes in Capitalization.*

10.6.1 In the event of any reorganization, merger, consolidation, recapitalization, liquidation, reclassification, stock dividend, stock split, combination of shares, rights offering, extraordinary dividend or divestiture (including a spin-off) or any other change in the corporate structure or shares of the Company, the Committee (or, if the Company is not the surviving corporation in any such transaction, the Board of Directors of the surviving corporation) shall make appropriate adjustment (which determination shall be conclusive) as to (i) the number and kind of securities which thereafter may be made subject to Options under the Plan, (ii) the number and kind of securities which are subject to outstanding Options or (iii) the purchase price with respect to the foregoing. Without limiting the generality of the foregoing, in the event that any of such transactions are effected in such a way that holders of Common Stock shall be entitled to receive stock, securities or assets, including cash, with

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respect to or in exchange for such Common Stock, all Participants holding outstanding Options shall upon the exercise of such Option receive, in lieu of any shares of Common Stock they may be entitled to receive, such stock securities or assets, including cash, as have been issued to such Participants if their Options had been exercised and such Participants had received Common Stock prior to such transaction.

10.6.2 Upon: (a) the sale, lease, exchange or other transfer of all or substantially all of the assets of the Company (in one transaction or in a series of related transactions) to a corporation that is not controlled by the Company, (b) the approval by the shareholders of the Company of any plan or proposal for the liquidation or dissolution of the Company, (c) a successful tender offer for the Common Stock of the Company, after which the tendering party holds more than 30% of the issued and outstanding Common Stock of the Company, or (d) a merger, consolidation, share exchange, or other transaction to which the Company is a party pursuant to which the holders of all of the shares of the Company outstanding prior to such transaction do not hold, directly or indirectly, at least 70% of the outstanding shares of the surviving company after the transaction, the holder of each Option then outstanding under the Plan will thereafter be entitled to receive at the next Offering Termination Date upon the exercise of such Option for each share as to which such Option shall be exercised, as nearly as reasonably may be determined, the cash, securities and/or property which a holder of one share of Common Stock was entitled to receive upon and at the time of such transaction. The Board of Directors shall take such steps in connection with such transactions as the Board shall deem necessary to assure that the provisions of this Section 10.6 shall thereafter be applicable, as nearly as reasonably may be determined, in relation to the said cash, securities and/or property as to which such holder of such Option might thereafter be entitled to receive.

10.7 *Amendment and Termination.* The Board may suspend or terminate the Plan or any portion thereof at any time, and may amend the Plan from time to time in such respects as the Board may deem advisable in order that Options under the Plan shall conform to any change in applicable laws or regulations or in any other respect the Board may deem to be in the best interests of the Company; provided, however, that no such amendment shall be effective, without approval of the shareholders of the Company, if shareholder approval of the amendment is then required to comply with or obtain exemptive relief under any tax or regulatory requirement the Board deems desirable to comply with or obtain exemptive relief under, including without limitation, pursuant to Rule 16b-3 under the Exchange Act or any successor rule or Section 423 of the Code or under the applicable rules or regulations of any securities exchange or the NASDAQ, and provided further that no such amendment shall change the terms, conditions or eligibility requirements of an Option granted under the Plan. No termination, suspension or amendment of the Plan shall alter or impair any outstanding Option without the consent of the Participant affected thereby; provided, however, that this sentence shall not impair the right of the Committee to take whatever action it deems appropriate under Section 10.6.1 or Section 10.6.2 of the Plan.

10.8 *No Employment Rights.* Nothing in the Plan shall interfere with or limit in any way the right of the Company or any Subsidiary to terminate the employment or service of any Eligible Recipient or Participant at any time, nor confer upon any Eligible Recipient or Participant any right to continue in the employ or service of the Company or any Subsidiary.

10.9 *Effect of Plan.* The provisions of the Plan shall, in accordance with its terms, be binding

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upon, and inure to the benefit of, all successors of each employee participating in the Plan, including, without limitation, such Employee's estate and the executors, administrators or trustees thereof, heirs and legatee, and any receiver, trustee in bankruptcy or representative of creditors of such Employee.

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10.10 *Governing Law.* The place of administration of the Plan shall be conclusively deemed to be within the State of Delaware, and the rights and obligations of any and all persons having or claiming to have had an interest under the Plan or under any agreements evidencing Options shall be governed by and construed exclusively and solely in accordance with the laws of the State of Delaware without regard to conflict of laws provisions of any jurisdictions. All parties agree to submit to the jurisdiction of the state and federal courts of Alabama with respect to matters relating to the Plan and agree not to raise or assert the defense that such forum is not convenient for such party.

10.11 *Construction and Headings.* The use of the masculine gender shall also include within its meaning the feminine, and the singular may include the plural and the plural may include the singular, unless the context clearly indicates to the contrary. The headings of the Articles and Sections of the Plan are for convenience of reading only and are not meant to be of substantive significance and shall not add or detract from the meaning of such Article or Section.

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**Exhibit 5.1**

**Opinion of Williams Mullen Hofheimer Nusbaum, P.C.**

June 29, 2005

Hibbett Sporting Goods, Inc.

451 Industrial Lane

Birmingham, Alabama 35221

RE: Hibbett Sporting Goods, Inc. 2005 Employee Stock Purchase Plan  
Form S-8 under the Securities Act of 1933, as amended

Ladies and Gentlemen:

We have acted as counsel to Hibbett Sporting Goods, Inc. (the Company) in connection with the registration by the Company under the Securities Act of 1933, as amended (the Act) of shares of Common Stock of Hibbett Sporting Goods, Inc., a Delaware corporation (the Shares), issuable under the Hibbett Sporting Goods, Inc. 2005 Employee Stock Purchase Plan (the Plan) under a Registration Statement on Form S-8 (the Registration Statement) expected to be filed with the Securities and Exchange Commission on June 30, 2005.

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We have examined such documents, records, and matters of law as we have deemed necessary for purposes of this opinion and, based thereon, we are of the opinion that, when the Shares have been registered under the Act, when the Company has completed the actions being taken in order to permit issuance of the Shares in accordance with the securities laws of the various states where required, and when the Company receives consideration for the Shares in accordance with the provisions of the Plan and the Shares have been issued by the Company as provided under the Plan, the Shares will be legally and validly issued, fully-paid and non-assessable.

This opinion letter is limited to the General Corporation Law of the State of Delaware and the federal laws of the United States of America.

We consent to the use of this opinion as an exhibit to the Registration Statement. In giving such consent, we do not hereby admit that we come within the category of persons whose consent is required under Section 7 of the Act or the Rules and Regulations of the Securities and Exchange Commission promulgated under the Act.

Very truly yours,

/s/ Williams Mullen Hofheimer Nusbaum, PC

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### Exhibit 23.1

#### Consent of Independent Registered Public Accounting Firm

The Board of Directors

Hibbett Sporting Goods, Inc.

We consent to the use of our reports dated April 13, 2005, with respect to the consolidated balance sheets of Hibbett Sporting Goods, Inc. and subsidiaries (the Company) as of January 29, 2005 and January 31, 2004, and the related consolidated statements of operations, stockholders investment, and cash flows for each of the years in the three-year period ended January 29, 2005, management's assessment of the effectiveness of internal control over financial reporting and the effectiveness of internal control over financial reporting as of January 29, 2005, incorporated by reference herein.

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Our report dated April 13, 2005, on management's assessment of the effectiveness of internal control over financial reporting and the effectiveness of internal control over financial reporting as of January 29, 2005, expresses our opinion that the Company did not maintain effective internal control over financial reporting as of January 29, 2005, because of the effect of the material weakness on the achievement of the objectives of the control criteria and contains an explanatory paragraph that states that the Company's management identified deficiencies in the Company's internal control over financial reporting regarding the selection, monitoring, and review of assumptions and factors affecting its lease accounting practices.

**KPMG LLP**

Birmingham, Alabama

June 28, 2005