

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

**FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

HOSTESS BRANDS, INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

47-4168492
(I.R.S. Employer
Identification No.)

**7905 Quivira Road
Lenexa, Kansas 66215
(816) 701-4600**

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

Hostess Brands, Inc. 2022 Employee Stock Purchase Plan

(Full Title of the Plans)

**Jolyn J. Sebree
Senior Vice President, General Counsel and Secretary
Hostess Brands, Inc.
7905 Quivira Road
Lenexa, Kansas 66215
(816) 701-4600**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

**Copy to:
Howard A. Kenny
Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178
(212)-309-6000**

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 definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act

PART I

Information Required in the Section 10(a) Prospectus

Item 1. Plan Information*

Item 2. Registrant Information and Employee Plan Annual Information.*

* The documents containing the information specified in Part I will be delivered in accordance with Rule 428(b)(1) under the Securities Act. Such documents are not required to be, and are not, filed with the Securities and Exchange Commission (the "SEC"), either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. These documents, and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II of this Form S-8, taken together, 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 Registrant with the Securities and Exchange Commission (the "Commission") pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"), are incorporated herein by reference:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the Commission on [March 1, 2022](#);
- (b) The Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2022, filed with the Commission on [May 4, 2022](#), and the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2022, filed with the Commission on [August 3, 2022](#);
- (c) The Registrant's Current Reports on Form 8-K filed with the Commission on [April 7, 2022](#); [June 10, 2022](#); [June 30, 2022](#), and [August 31, 2022](#);
- (d) The Registrant's Definitive Proxy Statement on Schedule 14A for the annual meeting of stockholders held on June 8, 2022, filed with the Commission on [April 29, 2022](#); and
- (e) The description of the Registrant's Class A common stock, par value \$0.0001 per share, contained in the Registration Statement on Form 8-A, as filed with the Commission on [August 11, 2015](#), as updated by [Exhibit 4.2](#) to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2021, as filed with the Commission on [March 1, 2022](#), including any subsequent amendment or report filed for the purpose of updating such description.

All documents filed by the Registrant pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the filing of this Registration Statement 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 into this Registration Statement and to be a part hereof from the date of filing such documents, except as to specific sections of such documents as set forth therein. Any statement contained in a document 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 in any subsequently filed document which also is deemed to be incorporated by reference herein modifies or supersedes such 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.

Section 145 of the Delaware General Corporation Law (the "DGCL") provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending or completed actions, suits or proceedings in which such person is made a party by reason of such person being or having been a director, officer, employee or agent of the Registrant. The DGCL provides that Section 145 is not exclusive of other rights to which those seeking indemnification may be entitled under any bylaws, agreement, vote of stockholders or disinterested directors or otherwise. The Registrant's Second Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws provide for indemnification by the Registrant of its directors and officers to the fullest extent permitted by the DGCL.

Section 102(b)(7) of the DGCL permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (1) for any breach of the director's duty of loyalty to the corporation or its stockholders, (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) for unlawful payments of dividends or unlawful stock repurchases, redemptions or other distributions or (4) for any transaction from which the director derived an improper personal benefit. The Registrant's Second Amended and Restated Certificate of Incorporation provides for such limitation of liability to the fullest extent permitted by the DGCL.

The Registrant maintains standard policies of insurance under which coverage is provided (1) to its directors and officers against loss arising from claims made by reason of breach of duty or other wrongful act, while acting in their capacity as directors and officers of the Registrant, and (2) to the Registrant with respect to payments which may be made by the Registrant to such officers and directors pursuant to any indemnification provision contained in the Registrant's Second Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws or otherwise as a matter of law.

Item 8. Exhibits.

The following exhibits are filed as part of this registration statement:

Exhibit Number	Exhibit Description
4.3	Hostess Brands, Inc. 2022 Employee Stock Purchase Plan (1)
5.1	Opinion of Morgan, Lewis & Bockius LLP with respect to the legality of the shares being registered
23.1	Consent of KPMG LLP, Independent Registered Public Accounting Firm
23.2	Consent of Morgan, Lewis & Bockius LLP (included in Exhibit 5.1)
24.1	Power of Attorney (included in signature page hereto)
107	Filing Fee Table

(1) Filed as exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on June 10, 2022 and incorporated herein by reference.

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 the 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% change 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 the Registration Statement or any material change to such information in the Registration Statement;

Provided, however, that paragraphs (A)(1)(i) and (A)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to section 13 or section 15(d) of the Exchange Act that are incorporated by reference in the 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 herein, 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, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered herein, 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 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 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 Lenexa, State of Kansas, on September 1, 2022.

HOSTESS BRANDS, INC.

By: /s/ Travis Leonard

Travis Leonard
Executive 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 Andrew P. Callahan, Travis E. Leonard, and Jolyn J. Sebree, and each of them, as his true and lawful attorney-in-fact and agent with full power of substitution, for him in any and all capacities, to sign any and all amendments to this registration statement (including post-effective amendments), and to file the same, with all exhibits thereto and other documents in connection therewith, with the SEC, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Andrew P. Callahan</u> Andrew P. Callahan	President, Chief Executive Officer and Director (Principal Executive Officer)	September 1, 2022
<u>/s/ Travis Leonard</u> Travis Leonard	Executive Vice President and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	September 1, 2022
<u>/s/ Jerry D. Kaminski</u> Jerry D. Kaminski	Chairman and Director	September 1, 2022
<u>/s/ Olu Beck</u> Olu Beck	Director	September 1, 2022
<u>/s/ Laurence Bodner</u> Laurence Bodner	Director	September 1, 2022
<u>/s/ Gretchen R. Crist</u> Gretchen R. Crist	Director	September 1, 2022
<u>/s/ Rachel P. Cullen</u> Rachel P. Cullen	Director	September 1, 2022
<u>/s/ Hugh G. Dineen</u> Hugh G. Dineen	Director	September 1, 2022
<u>/s/ Ioannis Skoufalos</u> Ioannis Skoufalos	Director	September 1, 2022
<u>/s/ Craig D. Steeneck</u> Craig D. Steeneck	Director	September 1, 2022

September 1, 2022

Hostess Brands, Inc.
7905 Quivira Road
Lenexa, Kansas 66215

Re: Hostess Brands, Inc. 2022 Employee Stock Purchase Plan

Ladies and Gentlemen:

We have acted as counsel to Hostess Brands, Inc., a Delaware corporation (the "Company"), in connection with the filing of a Registration Statement on Form S-8 (the "Registration Statement") under the Securities Act of 1933, as amended (the "Securities Act"), with the Securities and Exchange Commission (the "SEC"). This Registration Statement relates to the registration of 3,000,000 shares of Class A common stock, par value \$0.0001 per share (the "Common Stock") under the Hostess Brands, Inc. 2022 Employee Stock Purchase Plan (the "Plan").

In connection with this opinion letter, we have examined the Registration Statement and originals, or copies certified or otherwise identified to our satisfaction, of the Third Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws of the Company and such other documents, records and other instruments as we have deemed appropriate for purposes of the opinion set forth herein. In such examinations we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as copies and the authenticity of the originals of all copies.

Based on the foregoing, we are of the opinion that such shares of Common Stock being registered pursuant to the Registration Statement to be issued under the Plan have been duly authorized and, if and when issued and paid for in full in accordance with the Plan as contemplated by the Registration Statement, will be validly issued, fully paid and non-assessable.

This opinion letter is rendered as of the date first written above and we disclaim any obligation to advise you of facts, circumstances, events or developments which hereafter may be brought to our attention and may alter, affect or modify the opinion expressed herein. Our opinion is expressly limited to the matters set forth above and we render no opinion, whether by implication or otherwise, to any other matters relating to the Company or the Common Stock.

We hereby consent to the use of this opinion as Exhibit 5.1 to the Registration Statement. In giving such consent, we do not admit that we are acting within the category of persons whose consent is required under the provisions of the Securities Act or the rules or regulations of the SEC thereunder.

Very truly yours,

/s/ Morgan, Lewis & Bockius LLP

Consent of Independent Registered Public Accounting Firm

We consent to the use of our report dated March 1, 2022, with respect to the consolidated financial statements of Hostess Brands, Inc. and subsidiaries and the effectiveness of internal control over financial reporting, incorporated herein by reference.

/s/ KPMG LLP
Kansas City, Missouri
September 1, 2022

Calculation of Filing Fee Table

Form S-8
(Form Type)

Hostess Brands, Inc.
(Exact Name of Registrant as Specified in its Charter)

Newly Registered Securities

Security Type	Security Class Title (1)	Fee Calculation Rule	Amount Registered(2)	Proposed Maximum Offering Price Per Unit(3)	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Class A Common Stock, par value \$0.0001 per share	Rule 457(h)	3,000,000	\$19.78	\$59,340,000.00	\$92.70 per \$1,000,000	\$5,500.82
Total Offering Amount					\$59,340,000.00		\$5,500.82
Total Fee Offsets							\$0
Net Fee Due							\$5,500.82

¹ The shares of Class A Common Stock, par value \$0.0001 per share (the "Class A Shares") of Hostess Brands, Inc. (the "Registrant") being registered relate to awards to be undertaken in the future, with such terms and vesting conditions, as applicable, to be determined in accordance with the provisions of Hostess Brands, Inc. 2022 Employee Stock Purchase Plan (the "Plan").

² Pursuant to Rule 416(a) under the Securities Act, this Registration Statement covers any additional securities as may hereinafter be offered or issued to prevent dilution resulting from stock splits, stock dividends, recapitalizations, other capital adjustments or similar transactions.

³ Estimated pursuant to Rule 457(h) under the Securities Act solely for purposes of calculating the registration fee. The fee is computed based upon \$23.26, which represents the average of the high and low prices per share of the Registrant's Common Stock on August 30, 2022, as reported on the Nasdaq Stock Market LLC, multiplied by 85%, which is the percentage of the price per share applicable to purchases under the Plan.