

As Filed With the Securities and Exchange Commission  
on June 16, 2005

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

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

**FORWARD AIR CORPORATION**  
(Exact name of Registrant as Specified in its Charter)

**TENNESSEE**  
(State or Other Jurisdiction of  
Incorporation or Organization)

**62-1120025**  
(I.R.S. Employer  
Identification No.)

**430 Airport Road**  
**Greenville, Tennessee**  
(Address of Principal Executive Offices)

**37745**  
(Zip Code)

**Forward Air Corporation 2005 Employee Stock Purchase Plan**  
(Full Title of the Plan)

**Matthew J. Jewell**  
**Senior Vice President, General Counsel and Secretary**  
**430 Airport Road**  
**Greenville, Tennessee 37745**  
(Name and Address of Agent for Service)

**(423) 636-7000**  
(Telephone Number, including Area Code, of Agent for Service)

**CALCULATION OF REGISTRATION FEE**

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<b>Title of Securities to be Registered</b>	<b>Amount to be Registered (1)</b>	<b>Proposed Maximum Offering Price Per Share (2)</b>	<b>Proposed Maximum Aggregate Offering Price (2)</b>	<b>Amount of Registration Fee</b>
Common Stock, \$0.01 par value per share	500,000	\$26.47	\$13,235,000	\$1,557.76

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- (1) This registration statement also covers an indeterminate amount of shares which may be issued to prevent dilution as a result of future stock splits, stock dividends or other similar transactions. In addition, pursuant to Rule 416(c) under the Securities Act of 1933, as amended, this registration statement also covers an indeterminate amount of interests to be offered or sold pursuant to the employee benefit plan described herein.
- (2) The offering price is estimated solely for the purpose of determining the amount of the registration fee in accordance with paragraphs (c) and (h) of Rule 457 under the Securities Act of 1933, as amended, and is based on the average of the high and low prices per share of the Common Stock as reported on The Nasdaq National Market on June 10, 2005.
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## PART II

### INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

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

The following documents previously filed by Forward Air Corporation (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 year ended December 31, 2004;
- (b)(1) The Registrant's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2005;
- (2) The Registrant's Current Reports on Form 8-K dated February 15, 2005, April 20, 2005, April 26, 2005, April 28, 2005 and May 31, 2005; and
- (c) The description of the Registrant's Common Stock, \$0.01 par value per share (the "Common Stock"), contained in the Registrant's Registration Statements on Form 8-A/A and Form 8-A dated October 5, 1993 and May 27, 1999, respectively, filed pursuant to Section 12(g) of the Exchange Act, as amended, including all amendments and reports filed for the purpose of updating such description prior to the termination of the offering of the Common Stock offered hereby.

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

#### **Item 4. Description of Securities**

Not applicable.

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

The validity of the shares of the Common Stock being offered hereby was passed on for the Registrant by Matthew J. Jewell, Senior Vice President, General Counsel and Secretary of the Registrant.

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

The Tennessee Business Corporation Act ("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, whether or not while acting in an official capacity, 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, unless limited by its charter, 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 full extent permitted by applicable law. The Registrant's Bylaws further provide 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 which provides coverage for its directors and officers. Under this policy, the insurer agrees to pay, subject to certain exclusions and the limitations of liability of the insurance policy, 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.

**Item 7. Exemption from Registration Claimed**

Not applicable.

**Item 8. Exhibits**

See Exhibit Index (Page II-6).

**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, as amended (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 the 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 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 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 periodic 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 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, 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 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 foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the 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 of 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, as amended, 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 Greeneville, State of Tennessee, on the 16th day of June, 2005.

Forward Air Corporation

Date: June 16, 2005

By: /s/ Bruce A. Campbell  
Bruce A. Campbell  
President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, as amended, the administrator of the Registrant's 2005 Employee Stock Purchase Plan has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Greeneville, State of Tennessee, on the 16th day of June, 2005.

Forward Air Corporation 2005 Employee Stock  
Purchase Plan

Date: June 16, 2005

By: /s/ C. John Langley, Jr.  
C. John Langley, Jr.  
Chairman of the Compensation Committee

KNOW ALL MEN BY THESE PRESENTS, each person whose signature appears below hereby constitutes and appoints Bruce A. Campbell and Andrew C. Clarke his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments to this Registration Statement, and to file the same, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents 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 to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or his substitute or substitutes, 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 as of the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Richard W. Hanselman</u> Richard W. Hanselman	Chairman of the Board	June 16, 2005
<u>/s/ Bruce A. Campbell</u> Bruce A. Campbell	President, Chief Executive Officer and Director (Principal Executive Officer)	June 16, 2005
<u>/s/ Andrew C. Clarke</u> Andrew C. Clarke	Chief Financial Officer, Senior Vice President, Treasurer and Director (Principal Financial Officer)	June 16, 2005

<u>/s/ Rodney L. Bell</u> Rodney L. Bell	Vice President and Controller (Principal Accounting Officer)	June 16, 2005
<u>/s/ C. John Langley, Jr.</u> C. John Langley, Jr.	Director	June 16, 2005
<u>/s/ Ray A. Mundy</u> Ray A. Mundy	Director	June 16, 2005
<u>/s/ B. Clyde Preslar</u> B. Clyde Preslar	Director	June 16, 2005

## **Exhibit Index**

<u>Exhibit No.</u>	<u>Exhibit Description</u>
4.1	Restated Charter of Forward Air Corporation (incorporated by reference to Exhibit 3 of the Registrant's Current Report on Form 8-K, filed with the Commission on May 28, 1999 (File No. 22490))
4.2	Amended and Restated Bylaws of Forward Air Corporation (incorporated by reference to Exhibit 3.2 of the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2004, filed with the Commission on November 2, 2004 (File No. 22490))
4.3	Rights Agreement dated May 18, 1999 between Forward Air Corporation and SunTrust Bank, Atlanta, N.A., as Rights Agent, containing a description of the Rights to purchase Series A Junior Preferred Stock (incorporated by reference to Exhibit 4 of the Registrant's Current Report on Form 8-K, filed with the Commission on May 28, 1999 (File No. 22490))
4.4	Forward Air Corporation 2005 Employee Stock Purchase Plan (incorporated by reference to Exhibit A of the Registrant's Proxy Statement, filed with the Commission on April 20, 2005 (File No. 22490))
5	Opinion of Matthew J. Jewell, Senior Vice President, General Counsel and Secretary
23.1	Consent of Matthew J. Jewell, Senior Vice President, General Counsel and Secretary (included in Exhibit 5)
23.2	Consent of Ernst & Young LLP
24	Power of Attorney (included on page II-4)

June 16, 2005

Forward Air Corporation  
430 Airport Road  
Greeneville, Tennessee 37745

Dear Sirs:

With reference to the registration statement on Form S-8 which Forward Air Corporation (the "Company") proposes to file with the Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended, registering 500,000 shares of Forward Air Corporation Common Stock (\$0.01 par value per share) (the "Shares") which may be offered and sold by the Company under the Forward Air Corporation 2005 Employee Stock Purchase Plan (the "2005 ESPP"), which Shares, under the terms of the 2005 ESPP, may be authorized and unissued shares, I am of the opinion that:

1. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Tennessee.

2. All proper corporate proceedings have been taken so that any Shares to be offered and sold which are newly issued have been duly authorized and, upon sale and payment therefor in accordance with the 2005 ESPP and the resolutions of the Board of Directors relating to the offering and sale of Common Stock thereunder, will be legally issued, fully paid and nonassessable.

I hereby consent to the filing of this opinion with the SEC in connection with the registration statement referred to above.

Very truly yours,

/s/ Matthew J. Jewell  
Matthew J. Jewell  
Senior Vice President, General Counsel  
and Secretary

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**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the Forward Air Corporation 2005 Employee Stock Purchase Plan of our reports dated March 11, 2005, with respect to the consolidated financial statements of Forward Air Corporation, Forward Air Corporation management's assessment of the effectiveness of internal control over financial reporting, and the effectiveness of internal control over financial reporting of Forward Air Corporation included in its Annual Report (Form 10-K) for the year ended December 31, 2004, filed with the Securities and Exchange Commission.

Our audits also included the financial statement schedule of Forward Air Corporation listed in Item 15(a) of Form 10-K. This schedule is the responsibility of Forward Air Corporation's management. Our responsibility is to express an opinion based on our audits. In our opinion, the financial statement schedule referred to above, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

/s/ Ernst & Young LLP

Nashville, Tennessee  
June 14, 2005