

ADVANCE AUTO PARTS INC  
Form 8-K  
October 12, 2012

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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) October 8, 2012

ADVANCE AUTO PARTS, INC.  
(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	001-16797 (Commission File Number)	54-2049910 (I.R.S. Employer Identification No.)
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5008 Airport Road, Roanoke, Virginia (Address of Principal Executive Offices)	24012 (Zip Code)
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Registrant's telephone number, including area code (540) 362-4911

Not Applicable

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(Former name, former address and former fiscal year, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

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oWritten communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

oSoliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

oPre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

oPre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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INFORMATION TO BE INCLUDED IN THE REPORT

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On October 8, 2012, Advance Auto Parts, Inc. (“Company”) and Darren R. Jackson, the Company's President and Chief Executive Officer, entered into a Fifth Amendment to the Employment Agreement between the Company and Mr. Jackson dated as of January 7, 2008 (“Fifth Amendment”). The Fifth Amendment will become effective as of January 7, 2013, and will continue for an initial one-year term, which will be automatically renewable for additional one-year terms unless either party provides notice of non-renewal at least 90 days prior to the end of the then effective term.

The Fifth Amendment amends the Employment Agreement to provide that any incentive compensation granted to Mr. Jackson by the Company be subject to the Company's Incentive Compensation Clawback Policy as adopted by the Company's Board of Directors or Compensation Committee from time to time. The Fifth Amendment also provides that the Company shall reduce the payments to be made to Mr. Jackson in connection with a Change in Control to the maximum amount that could be paid to Mr. Jackson without giving rise to an excise tax if the aggregate after-tax amount payable to Mr. Jackson would be greater after giving effect to such reduction. The Fifth Amendment also eliminates (i) the tax gross-up payment intended to make Mr. Jackson whole for excise taxes that may be imposed on the Change in Control payments that was previously included in the Employment Agreement and (ii) the obligation to accelerate vesting of equity awards upon Change in Control and provides that the vesting of equity compensation in the event of Change in Control will be governed by the terms of the applicable award agreement or grant. The Fifth Amendment also contains a technical amendment related to Section 409A of the Internal Revenue Code.

The foregoing description of the Fifth Amendment is not complete and is qualified in its entirety by the full text of the First Amendment, which is filed as Exhibit 10.35 to this Current Report on Form 8-K.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit  
Number

10.35 Fifth Amendment to Employment Agreement effective January 7, 2013, between Advance Auto Parts, Inc. and Darren R. Jackson.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

ADVANCE AUTO PARTS, INC.  
(Registrant)

Date: October 12, 2012

/s/ Michael A. Norona  
(Signature)\*  
Michael A. Norona  
Executive Vice President and Chief Financial Officer

\* Print name and title of the signing officer under his signature.

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EXHIBIT INDEX

Exhibit  
Number

10.35

Fifth Amendment to Employment Agreement effective January 7, 2013, between Advance Auto Parts, Inc. and Darren R. Jackson.