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STATE OF TENNESSEE

ALCOHOLIC BEVERAGE COMMISSION
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August 12, 2003

Chief, Regulations and Procedures Division
Alcohol and Tobacco Tax & Trade Bureau
Post Office Box 50221
Washington, D.C. 20091-0221

RE: Notice of Proposed Rulemaking on Flavored Malt Beverages ("FMB")
Dear Sir or Madam:

The Tennessee Alcoholic Beverage Commission ("TABC") has reviewed the Alcohol and Tobacco Tax & Trade Bureau's ("TTB") proposed rule that would require alcoholic beverages be taxed as beer and regulated as malt beverages only if less than one-half of one percent of the beverage's content is derived from alcohol added through the addition of distilled spirits rather than from the brewing process. This letter is to advise TTB that the TABC supports the proposed rule as written for the following reasons.

On February 20, 2003, the TABC conducted an administrative hearing to determine whether FMBs containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol were alcoholic beverages subject to this agency's jurisdiction and regulation. The TABC's position at the hearing was that FMBs were alcoholic beverages subject to its jurisdiction, and should be taxed, distributed and regulated as such. An Initial Order is pending in this matter; however, the issuance of this Order is awaiting TTB's final rule setting a national standard for the amount of a beer's alcoholic content that may be derived from distilled spirits. The TABC believes that the proposed 0.5% alcohol by volume standard would be consistent with its position taken at the February hearing.

Further, it is this agency's belief that the proposed standard is consistent with the majority of other state's current statutes defining alcoholic beverages. To deviate from this proposed standard would require a greater number of states to seek legislative amendments.

As stated above, the TABC supports the TTB's proposed rule setting a 0.5% alcohol by volume standard, and would encourage the promulgation of this rule without modification.

If you need additional information, please do not hesitate to contact this office.

Sincerely,

Shari Danielle Elks
Executive Director

Tennessee Alcoholic Beverage Commission is an equal opportunity, equal access, affirmative action employer.