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South Dakota Retailers
South Dakota Retailers Association
P.O. Box 638
320 East Capitol
Pierre, SD 57501

Since 1897

September 23, 2003

Attn: TTB Notice No. 4
Chief, Regulations and Procedures Division
Alcohol and Tobacco Tax and Trade Bureau
PO Box 50221
Washington, D.C. 20091-0221

Dear Sir or Madam:

The South Dakota Retailers Association supports the proposed rule recently issued by the Tax and Trade Bureau in TTB Notice No. 4 of March 2003 regarding the alcohol content of Flavored Malt Beverages ("FMB's"). This rule would require that no more than 0.5% of the alcohol content of FMB 's be derived from distilled alcohol in order to be classified as "beer."

The proposed "0.5% standard" for FMB's is consistent with the historical interpretation by Federal regulatory authorities of what constitutes beer and other malt beverages. These historical standards take into consideration the ancient brewing process for beer that has resulted in the unique regulation and taxation of beer in contrast to other alcohol beverages.

The proposed rule is also important because it gives states guidance on how to classify these products. While states have traditionally had independent regulatory power on how to classify alcoholic products, they have followed Federal policy in their decisions related to taxation, licensing and distribution of alcohol. Federal leadership in this important area will likely be followed at the state level and will work to maintain an orderly marketplace. This is important to our members because it will help prevent disruption in the market that could cause confusion and extra regulatory compliance costs. For example, without the proposed federal standard, the same product may ultimately be sold as "beer" in one state and "distilled spirits" in another.

Once again, we reaffirm our support for the "0.5% standard" for FMBs and urge its final adoption in the near future.

Sincerely,

Jerry Wheeler
Executive Director
South Dakota Retailer Association
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