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STATE OF NEBRASKA
NEBRASKA LIQUOR CONTROL COMMISSION
Forrest D. Chapman
Executive Director
301 Centennial Mall South, 5th Floor
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TRS USER 800 833-7352 (TTY)
web address: <http://www.nol.org/home/NLCC/>

October 16, 2003

Mike Johanns
Governor

Chief, Regulations and Procedures Division
Alcohol and Tobacco Tax & Trade Bureau
Post Office Box 50221
Washington, D.C. 20091-022 1

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

The Nebraska Liquor Control Commission after receiving a wealth of information from interested parties has unanimously voted to support your proposed .5% standard.

Only during this past year have most states, including Nebraska, come to fully realize that some manufacturers were engaged in the practice of blending a little bit of beer with substantial amounts of alcohol obtained by distillation.

Nebraska has acted, under its independent authority granted by the twenty-first amendment, as explained in the attached letter sent to the affected industry.

Finally, it would be our humble suggestion that the time to act is now, and that unnecessary delays be avoided.

Sincerely,

NEBRASKA LIQUOR CONTROL COMMISSION

Bob Logsdon, Chairman
/tf
Rhonda R. Flower Bob Logsdon R.L. (Dick) Coyne
Commissioner Chairman Commissioner
An Equal Opportunity/Affirmative Action Employer

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Mike Johans
Governor

October 7, 2003

Dear Nebraska Wholesaler,

The Commission, in light of a recent federal government study of the category of products known as "Flavored Malt Beverages", as well as other information recently received, has determined that under Nebraska's statutory definitions, a "Flavored Malt Beverage" should be classified as a "spirits" and not "beer" for tax and distribution purposes if more than .5% of its alcohol content was obtained by distillation.

Accordingly, effective January 1, 2004, all products imported into the State of Nebraska known as "Flavored Malt Beverages", except as provided below, will be taxed and distributed as spirits products. This notice is being provided to you so that you may have a reasonable time period for an orderly transition of product.

If you distribute any brand(s) of a malt beverage product with flavor(s) that derives less than .5% alcohol content by volume from distillation then please deliver to the Commission a notarized affidavit signed by the manufacturer's CEO of this fact along with a copy of each brand's label, on or before November 15, 2003, so that the Commission can note that such product(s) are "beer" for purposes of taxation and distribution. Any new brand, product, or category of malt beverage containing any flavor(s) that bears a federally approved label identifying the product as a malt beverage with flavor(s), which contains .5%, or more, of its alcohol content by volume from distillation, must be noticed to the Commission prior to importation into the State of Nebraska by an affidavit signed by the manufacturer's CEO declaring that fact.

Finally, the Commission will allow any retailer that may have product remaining in their inventory on January 1, 2004, to continue selling any remaining product until March 1, 2004.

Sincerely,

NEBRASKA LIQUOR CONTROL COMMISSION

Bob Logsdon, Chairman

Retailers
Rhonda R. flower Bob Logsdon R.L. (Dick) Coyne
Commissioner Chairman Commissioner
An Equal Opportunity/Affirmative Action Employer

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