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DAVE SULLIVAN  
STATE SENATOR. 33RD DISTRICT

October 6, 2003

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

Dear Sir or Madame:

Please note that I support the proposed rule issued in March 2003 by the Tax and Trade Bureau (TTB) that outlines the alcohol content requirements in order for flavored malt beverages (FMB) to be classified as beer. Specifically, you propose that for an FMB to be classified as beer, its alcohol content from distilled alcohol cannot exceed 0.5%.

Beer is a unique product that has been regulated and taxed differently than other alcohol beverages. The TTB proposed rule is consistent with the historical interpretation of what constitutes beer and other malt beverages. The distinct regulatory treatment of beer is based on its age-old production process, and its definition in the IRS Code dates back to the 1800s when Congress first imposed the beer excise tax. Adoption of the TTB "0.5 by volume standard" would ensure the integrity of beer and the brewing process.

Consistent regulatory policy is important because while states, pursuant to the 21st Amendment have regulatory power over alcohol, most follow federal guidelines. This proposed rule would help maintain an orderly marketplace and avoid costly and confusing disruptions in state licensing, taxation and distribution policies, any of which would deal a severe blow to beer wholesalers..

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Moreover, equating beer and beverages that derive a majority of their alcohol content from distilled spirits could weaken the important distinctions between beer and products with higher alcohol content. These distinctions impact state and federal policies regarding temperance and taxation.

If traditional distinctions disappear, it will only be a matter of time before other producers of alcohol beverages attempt to categorize themselves as beer products.

Beer is made through the brewing process. The 0.5% standard will ensure that the integrity of beer remains.

Once again, I encourage the TTB to give final approval to the proposed 0.5% standard on FMBs. Thank you for your consideration

Best Regards,

Dave Sullivan  
DS/lm  
bc: Tom Murphy