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STATE OF DELAWARE
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF ALCOHOLIC BEVERAGE CONTROL COMMISSIONER
CARVEL STATE OFFICE BUILDING
820 NORTH FRENCH STRIET
WILMINGTON, DELAWARE 19801 TELEPHONE: (302) 5775-ABC (222)
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October 21, 2003

VIA FACSIMILE 202-927-8525
& U.S. Mail

Chief, Regulations and Procedures Division
Alcohol and Tobacco Tax and Trade Bureau
P.O. Box 50221
Washington, DC 20091-0221

Re: TTB Notice No. 4; Flavored Malt Beverages

Dear Mr. Foster:

This letter is submitted by the Office of the Alcoholic Beverage Control Commissioner of the State of Delaware in response to the Notice of Proposed Rulemaking, TTB Notice No. 4. This Office has the responsibility of adopting rules and regulations, not inconsistent with the laws of the State of Delaware, to control the purchase and sale of alcohol in this State. This Office also grants, refuses and cancels licenses for the sale of alcoholic beverages within this State and generally controls the manufacture, possession, sale and delivery of alcoholic liquors in accordance with Delaware laws. This Office applauds your agency's efforts to develop regulations regarding flavored malt beverages.

As you know, the issue of flavored malt beverages is a delicate matter. Although this Office continues to believe strongly in each State's right to ultimately decide issues • regarding alcoholic beverages, this Office deems it appropriate and helpful for your agency to promulgate regulatory standards for these new beverages. Most states, and Delaware in particular, do not have the resources to perform the testing required to properly identify these new beverages. If a national standard for these beverages is established, state legislatures and administrators can make an informed decision as to whether it is in the state's interest to comply with or deviate from the national standard.

Delaware's concern with these beverages is not where they can be sold to consumers. Alcoholic beverages, be they beer or spirits. may only be sold in "package stores" in Delaware. Delaware is concerned with the tax issue and the substantial reduction in the rate paid for beer (\$4.85 per barrel or \$0. 156 per gallon) versus the rate paid for "Low spirits" (\$3.64 per gallon). Obviously the amount of money in controversy is large for the State, the industry, and the consumers.

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The present proposal is a viable regulation that makes sense from a regulatory point of view. This Office is supportive of adopting a regulation as soon as possible and therefore is in favor of the current proposed regulation.

In closing, this Office appreciates the efforts that your agency has taken in defining these beverages. If your agency would desire further input from our State or if there is anything that this Office can do to assist in the process, please feel free to contact this Office.

Very truly yours,

John H. Cordrey
Commissioner