

Original Message

From: Osmer N. Arauz

Sent: Sunday, June 15, 2003 11:45 PM

To:

Subject: Comment to proposed rule 27 CFR Parts 7 and 25-- 2001R-136P
June 12, 2003

To whom it may concern:

As students in a Business in Society course at Florida International University's College of Business, we were required asked to engage in the public policy rulemaking process. Throughout the spring 2003 semester we searched the Federal register for a rule that was of interest to our group, composed of five students, as well as a rule that might directly affect stakeholders within our nearby community. The rule that we decided upon was Federal Register number: 27 CFR 7 and 25; Flavored Malt Beverages and Related Proposals (2001R-136P). We feel that one of the major stakeholders in this matter includes the population of college students over 21 as well as young men and women ranging up to the age of 27. This age range from 21-27 was described as the consumer base for malt beverages by an expert in the field from Anheuser Bush. We were able to gather a sample from the said population and administered a brief survey, as well as made attempts to contact major distributors and bottlers of malt beverages in the in the South Florida area.

It is important to also note that we made various attempts to contact local bottlers and manufacturers of several flavored malt beverages and did not receive any response from them. Some instances we were given the run around and were later told the person to talk to was out of town.

As concerned college business students, we believe and agree with many sections of the proposed rule from a solely financial and tax standpoint. However, we do have a few recommendations that might serve well from a consumer and societal standpoint. It is in the interest of all parties concerned to note

6/16/2003

Page 2 of 5

that it is the consumer's purchasing behavior that will always be the primary determinant in the market. In other words, it is both individual firms' responsibility and governing bodies' responsibility to make sure the consumer receives a product they can be complacent with, as well as fairly priced.

With this in mind we offer the following recommendations and comments for consideration:

1. 51 % of the alcohol content should be derived from fermentation.

0 Any alcoholic beverage labeled as a flavored malt beverage whose alcohol content from flavoring and spirits is 49% or less should remain categorized as beer. This gives producers of these flavored beverages a fair chance to produce a product that still retains properties of beer yet give them the leniency to add flavoring and distilled products until the balance of 51/49 is met. The time allotted for the implementation of the new regulations should be no more than six (6) months.

2. New labeling guidelines

0 Within these malt beverages, there is a great deal of consumer confusion as to what their true alcohol content is. We recommend a way that is fair to both consumers and producers that will include any beverages that fall outside the customary range of 4- 6% by volume. Our recommendation entails the use of colored dots on the label to signify the true amount of alcohol by volume contained in the beverage. This will ensure consumers are informed and will not require producers to redesign their labels; rather it will only require them add a small colored dot to the already made labels.

0 This new dot system must be placed on the brand label, and not on the back of the bottle ensuring that the drinker has a higher chance to see it on the front. This new system would further amend 7.22 where it does not have to be delineated by a number but rather a color dot system. This system would have to be optional to the manufacturers giving them the chance to choose the one that is least costly as long as it is placed on

the brand label. A location on the brand label should be designated to avoid any devious placement by the producers.

0 A n effective labeling guideline is definitely needed; one that more consumers can pay attention to since most do not pay attention to those in place now. According to

6/16/2003

Page 3 of5

our survey, 67.3% of those surveyed never read the labels or contents on any of the beverages they consume.

3. Flavored malt beverages should not bear any brand names

0 These malt beverages should not in their entirety bear a brand name that can be associated with a distilled spirit. It is true that this offers a great marketing advantage for manufacturers, however, it can be greatly misleading to consumers. Moreover, what becomes more misleading is the fact that even though there are distilled alcohol brands on these products, these do not taste anything like the distilled spirits.

0 Perhaps the most puzzling reality is that since these malt beverages contain an extensive amount of sugars, they hide the real taste of alcohol and consumers consume them in greater numbers. In the case of young drinkers, they become inebriated at a faster rate and at times this may create more trouble for them than happiness as the ads show. According to our survey, over 47% of the people surveyed feel that these drinks give the perception of having higher alcohol content because they are not beer.

4. Filing of a formula

0 It is important to note that although part IX, section B1, states the requirement of the filing of a formula and not just the statement of process, many manufacturers will be against this policy if implemented because it represent a liability to their production process. However, the requirement should be that if a manufacturer intends to sell a flavored malt beverage, it must submit a statement/formula of only the specific added flavors it will use to reach the 49% mark. The remaining alcohol content can be determined through the implementation of proposed section 25.53 where a sample must be submitted. If doubts and questions arise regarding the

alcohol content of a brand, the sample can be then examined and through that process determine if any violation occurred.

5. Our next recommendation is not specific to a section of the proposed rule, what we are

6/16/2003

Page 4 of 5

proposing is the addition of a separate category for these flavored malt beverages for the purposes of alcohol composition and in turn the taxation of the product. A separate category labeled "Flavored Malt Beverages" would create a set of new standards that can eliminate the confusion of where these beverages lie in the alcoholic beverages realm. This will provide the opportunity for giving consumers and other stakeholders a more clear definition of these beverages as well as give the governing bodies a chance to come up with a new taxation policy for only these beverages. For instance, if the tax rate for beer is 9% and the tax rate for distilled spirits is 18%, then the flavored malt beverages should be a number between the two. We believe that it would be wise to develop this new category of its own, because it is quite a unique alcoholic beverage. In production it has parts of beer as well as various flavors and added distilled spirits therefore making a new genre in alcohol.

6. Sales of these newer types of flavored malt beverages have increased dramatically within the last year. As a result of these sales increases and widespread marketing campaigns, the media has given these products wide exposure. Another fact drawing media attention to these products is the increased targeting of young drinkers. There should be a regulation within advertising section that addresses misleading ads by companies where

a certain malt beverage drink will result in giving a young drinker the opportunity to experience certain situations. In reality these situations will never occur and only causes the individuals to continue drinking in search of that advertised situation. The ads exposed people to themes of rebellion, independence, social and sexual attraction. We urge that the TTB review the appeal of the ads and the content of product advertisements and how these ads affect consumers' health and safety.

Thank you very much and we hope we have in some way offered some valid points to consider about this most important subject; if you have any further questions, feel free to reply to this e-mail.

Osmer N. Arauz

Karolin Luna

6/16/2003

Page 5 of 5

Cecilia Vargas

Alexander Quesada Wilmary Diaz
Florida International University -Miami, Florida.

.

6/16/2003

..... ~