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EARL SMITH
DISTRIBUTING COMPANY
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September 3, 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:

Earl Smith Distributing Company supports 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, the TTB proposes that for an FMB to be classified as beer, its alcohol content from distilled alcohol cannot exceed 0.5%.

This proposal supports and further strengthens the integrity of beer as a product made through the brewing process. Beer is a malt-based product, easily differentiated from other alcohol beverages not made by brewing, but by the distillation process, like spirits or fortified wine. The TTB proposal is consistent with regulations adopted by most state legislators, alcohol beverage regulators and the Internal Revenue Service (IRS) for how malt beverages are defined for the purposes of taxation and distribution.

Most states, like Michigan follow federal regulatory guidelines despite having the power to regulate alcohol. This proposal provides for consistent policy to be applied by all states for the licensing, taxation and distribution of beer. To do otherwise would cause disruption in the marketplace and be damaging to beer wholesalers.

Beer and beverages that derive a majority of their alcohol from distilled spirits are distinctly different. The differences have a direct impact on the policies that state and federal regulators use for the control and taxation of alcohol beverages.

To allow a blurring of the lines of difference now Would serve to welcome other manufacturers of alcohol beverages to categorize their products as beer.

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Beer is not distilled spirits. Beer is not fortified wine. Beer is not a product made through the distillation process. Beer is made through the brewing process and the 0.5% standard will ensure that the integrity of beer remains.

Earl Smith Distributing Company encourages the Tax and Trade Bureau to give final approval to the proposed 0.5% standard on FMBs.

Sincerely,

Robert E. Smith Richard M. Dionne
President Vice President

Bc: NBWA