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THE ASSEMBLY
CHAIRMAN
STATE OF NEW YORK Committee on Economic Development,
Job Creation, Commerce and Industry
ALBANY COMMITTEES
Codes
ROBIN SCHIMMINGER Health
Rules
140th District
Ways & Means

September 24, 2003

Chief, Regulations and ProCedures Division
Tax and Trade Bureau
P.O. Box 50221
Washington, D.C. 20031-0221

Dear Sir or Madam:

As Chairman of the Committee on Economic Development, Job Creation, Commerce and Industry of the New York State Assembly, I am writing to express my support for the United States Treasury Department Division of Alcohol and Tobacco Tax and Trade Bureau's (TTB) proposed requirements for flavored malt beverages (FMB). The proposed standard would require that in order for a FMB to be classified as beer, its alcohol content derived from distilled alcohol can not exceed 0.5%.

The distinction that beer enjoys from other alcohol beverages and products is based on its age-old production process, and beer has been regulated and taxed differently than other alcohol beverages throughout out nation's history. The definition of what constitutes a beer was defined in the Internal Revenue Code sometime in the early 1800's, when the beer excise tax was first imposed by Congress. The proposed rule is consistent with the historical interpretation of what constitutes beer and other malt beverages.

Such policy consistency is important because while most states enjoy regulatory power over alcoholic beverages, most follow Federal regulatory guidelines. This proposed rule would help maintain an orderly marketplace, thus avoiding costly and confusing disruptions in state licensing, taxation and distribution policies.

Moreover, equating beer and beverages deriving a majority of their alcohol content from distilled spirits could weaken the important distinctions between beer and products with a higher alcohol content. These distinctions impact state and federal policies regarding the regulation and taxation of beer and other alcohol beverages. If these distinctions disappear, it will only be a matter of time before other producers of alcohol beverages attempt to categorize themselves as beer products.

Thank you for this opportunity to share my viewpoint on this important issue. I encourage the TTB to give a final approval to the proposed "0.5% standard" on FMBs.

Sincerely,

Robin Schimminger

RS/vkk

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