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CONGRESS OF THE UNITED STATES
Washington, DC 20515

October 21, 2003

William Foster
Chief, Regulations and Procedures Division
Alcohol & Tobacco Tax & Trade Bureau
Department of the Treasury
ATTN: Notice Number 4
P.O. Box 50221
Washington, DC 20091-0221

Dear Mr. Foster:

We are writing regarding TTB Notice Number 4, Flavored Malt Beverages and Related Proposals, and to support alternate adoption of a "majority" flavored malt beverage (FMB) formulation standard instead of the 0.5% alcohol by volume limit proposed in Notice Number 4.

Over the last five years, hundreds of millions of dollars have been invested in the development of the FMB category. These investments, and the thousands of jobs created, were all made on the reliance of long-standing federal policy and rules. You know this better than anyone, as you have approved, administered, and regulated the formulas, labels, and marketing practices utilized by these brands. Now, with Notice Number 4, you intend to change the established rules mid-stream on those who have successfully created the category. This is especially troubling in that it threatens to stifle the only growth sector in the brewing industry over the last several years. It also seems designed to distort the existing market by providing an artificial competitive advantage for companies that currently dominate the domestic beer industry but that have introduced underperforming and less popular FMB products.

Significantly, a review of the tax laws from 1862 forward demonstrates that our predecessors in Congress used the one-half of 1 per centum (or 0.5%) as nothing more than a taxation threshold for numerous products. What is clear from the historical review is that at no time did Congress consider formulation when it put a 0.5% threshold in the definition of beer.

We, therefore, urge you to reconsider the 0.5% standard. The "majority standard" is much more reasonable, addresses consumer and state issues cited in Notice Number 4, and is more in line with recent precedent.

Thank you for your consideration,

Judy Biggert
Pat Toomey
Louise Slaughter
Ron
John B

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<< 0043439A >>

Donald
Bonnie
Ed
Henry

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DAVID DREIER LOUISE SLAUGHTER
Member of Congress Member of Congress
JUDY BIGGERT RON KIND
Member of Congress Member of Congress
PAT TOOMEY JOHN B. LARSON
Member of Congress Member of Congress
AMO HOUGHTON CHRISTOPHER SHAYS
Member of Congress Member of Congress

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JERRY WELLER MARK STEVEN KIRK
Member of Congress Member of Congress
DONALD A. MANZULLO EDOLPHUS TOWNS
Member of Congress Member of Congress
BENNIE G. THOMPSON MARK FOLEY
Member of Congress Member of Congress
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