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September 30, 2003

Attn: TTB Notice No. 4  
Chief, Regulations and Procedures Division  
Alcohol and Tobacco Tax and Trade Bureau  
P.O. Box 50221  
Washington, D.C. 20091-0221

Dear Sir or Madam:

I support the proposed rule recently issued by the Tax and Trade Bureau in TTB Notice No. 4 of March 2003 regarding the alcohol content of Flavored Malt Beverages ("FMB's"). This rule would require that no more than 0.5% of the alcohol content of FMBs be derived from distilled alcohol in order to be classified as "beer."

The proposed "0.5% standard" for FMB's is consistent with the historical interpretation by Federal regulatory authorities of what constitutes beer and other malt beverages. These historical standards take into consideration the ancient brewing process for beer that has resulted in the unique regulation and taxation of beer in contrast to other alcohol beverages.

The proposed rule is also important because it gives our state guidance on how to classify these products. While our state has independent regulatory power on how to classify alcoholic products, we have followed Federal policy in their decisions related to taxation, licensing and distribution of alcohol. Federal leadership in this important area will likely be followed at our state level and will work to 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 policies regarding the regulation and taxation of beer and other alcohol beverages.

Once again, I encourage the TTB to give a final approval to the proposed 0.5% standard" for FMBs in the near future.

Sincerely,

Senator Johnnie C. Crutchfield