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FOOD INDUSTRY ALLIANCE OF NEW YORK STATE INC  
Albany, New York 12210.  
Government Relations  
Metro Office. Rye, NY 10580

July 22, 2003

Chief, Regulations and Procedures Division  
Alcohol and Tobacco Tax and Trade Bureau  
Washington, DC 20091-0221

RE: Notice 4

Dear Sir or Madam:

The Food Industry Alliance of New York State, Inc. is a statewide, not-for-profit trade association representing the interests of New York's 21,000 food stores. Our members include multistate chain stores, independent supermarkets, convenience stores, and small neighborhood grocers.

I am writing to express our support for the U.S. Treasury Alcohol and Tobacco Tax Bureau's (TTB) proposed rulemaking to establish a 0.5% threshold for flavored malt beverages (FMB) (2001R.136P). We believe the TTB's action is an important clarification of federal alcohol beverage categories that were established to maintain an orderly U.S. marketplace. In our view, the debate surrounding the proposed standard will settle important issues for the stability of the retail licensing system and the overall marketplace.

Our support for the proposed 0.5% standard is consistent with the position of The Beer Institute, the National Beer Wholesalers Association, and many small brewer associations, among others, because this standard is the most efficient means to address recent concerns raised by both federal and state officials. If adopted, the standard will maintain an orderly marketplace, meet consumer expectations for uniform products, and help sustain the long-term development of the product category. In additions, these reformulated products will comply with state tax, license, and distribution laws allowing wholesalers and retailers to continue to distribute, sell, and market flavored malt beverages as they do today.

Absent a national standard rooted in existing law and regulation, manufacturers, retailers, and wholesalers will face a potential for a patchwork of individual state laws and regulations where the same product may ultimately be sold as a "beer" in one state and as a "distilled spirit product in another.

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Finally, there are some who have concerns regarding the ability of manufacturers to produce FMB products in accordance with the new proposal. As you may know, brewers have already demonstrated the expertise and technical ability to brew these products under the new federal standard. The FMB products that look and taste the same will be available to wholesalers and retailers in all states with no interruption and no discernible taste differences for consumers. Among the popular products that will remain available to consumers if the proposed rule is adopted are SKYY Blue, Stolichnoya Citrana, and Jack Daniel's Original Hard Cola.

Thank you for this opportunity to offer my support for the current TTB proposed rulemaking for flavored malt beverages.

Sincerely,

Michael E. Rosen, General Counsel and  
Senior Vice President, Governmental  
Relations