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From: Bradley Latham [Bradley@aob.org]
Sent: Friday, October 17, 2003 4:28 PM
To: nprm@ttb.gov
Subject: RE: TTB Notice #4, Flavored Malt Beverages and Related
Proposals (2001R-136P)

October 17th, 2003 Chief, Regulations and Procedures Division Tax and Trade Bureau PO Box
50221 Washington, D.C. 20031-0221

Dear Sir or Madam: The Association of Brewers supports the proposed regulations for
products

marketed as flavored malt beverages (FMBs), as set forth by the Tax and Trade
Bureau (TTB) in TTB Notice No. 4 of March 2003. It is appropriate that the limit of
alcohol in a "beer" derived from

distilled sprits be limited to 0.5% alcohol by volume. The 0.5% alcohol by
volume limit is the standard for determining the tax status of beer, wine and
fruit flavor concentrates, as well as juices and sodas that contain small
amounts of alcohol. The 0.5% standard is fair across the board for all
beverages, and should apply to FMBs with added flavors as well.

The perception of the general public is that beer is a beverage with malt
flavor and hop bitterness, flavor and aroma. Many small brewers currently
produce flavored malt beverages that have these characteristics. The products
currently classified as FMBs and recently analyzed by TTB display none of
these characteristics, and should not be considered or taxed as beer. The
manner of FMB production described in Notice No. 4 avoids many of the costs
associated with the volume demands of beer production and storage, and enjoys
an unfair competitive advantage over traditional and craft brewers, based on
the regulations. I commend the TTB on recognizing the imbalance and the need
to propose regulations. The TTB proposal asks for comment on alternative standards, such
as whether

the standard should be less than 50 percent of the final alcohol derived from
spirits addition. This alternative limit would create a huge disruption to
state governments who currently have regulations mirroring the federal
standards. TTB has correctly analyzed state laws and regulations, and the
0.5% standard appears to eliminate the need for changes in a majority of
states. The beer industry has undergone a major revitalization in the past
twenty-five years, with smaller brewers and brewpubs found in every state,
every major metropolitan area, and many small towns. These small businesses
employ tens of thousands of people. This is a sector of the alcoholic
beverage industry that the federal government should foster and protect. The
smaller players often rely on the goodwill and patronage of a single
community or smaller geographic area. These businesses encourage responsible
enjoyment of the unique attributes of beer, often with meals to complement a
particular beer style.

The proposed regulations return fairness to the alcohol industry that has
been compromised by recent entries in the FMB category. The number of
microbreweries closing since the arrival of FMBs has exceeded the number of
microbreweries opening, reversing the trend and weakening the industry.

In summary, our company supports the proposed "0.5% standard" for FMBs for
reasons of fairness and to protect the image of what the general public
considers beer. Please help us to prevent the mass marketing of a new fad
that is trying to dilute the historic tradition that is quality beer. We
solemnly support this proposal to help continue the same brewing techniques
and traditions that our country was founded on.

Sincerely, Bradley Latham
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