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Beer Wholesalers Association of New Jersey -
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Robert J. Pinard, Esq.
Executive Director

October 1, 2003

Attn: TTB Notice No.4
Chief, Regulations and Procedures Division
Alcohol and Tobacco Tax and Trade Bureau
P0 Box 50221
Washington, D.C. 20091-0221

Dear Sir or Madam:

The Beer Wholesalers Association of New Jersey supports the proposed rule recently issued in March 2003 by the Tax and Trade Bureau that outlines the necessary alcohol content requirements in order for Flavored Malt Beverages (FMB) to be classified as beer. The proposed standard would require that in order for an FMB to be classified as beer, its alcohol content derived from distilled alcohol can not exceed 0.5%.

Beer is a unique type of alcohol that has been regulated and taxed differently than other alcohol beverages throughout our nation's history. The distinction that beer enjoys from other alcohol products is based on its age-old production process. Its definition in the Internal Revenue Code dates back to the 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 states enjoy regulatory power over alcohol, most follow federal regulatory guidelines. The State of New Jersey applies the Federal regulations relating to labeling and standards of fill concerning distilled spirits, wine and malt alcohol beverages. The Federal regulations apply whether the alcohol beverage product is intended for shipment into New Jersey or packaged purely for intrastate use. N.J.A.C. 13:2-27.1. This proposed rule would help maintain an orderly marketplace. It will avoid costly and confusing disruptions in state licensing, taxation and distribution policies now and in the future. Any of which would deal a severe blow to beer wholesalers.

Moreover, equating beer with a beverage that derives a majority of its alcohol content from distilled spirits will 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.

Once again, the Beer Wholesalers Association of New Jersey encourages the TTB to give a final approval to the proposed "0.5% standard" on FMB's.

Sincerely,

Robert J. Pinard, Esq.
Executive Director

RJP/cb