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THE ASSEMBLY STATE OF NEW YORK ALBANY

JIM HAYES  
Assemblyman 148th District

DEPUTY MINORITY WHIP  
COMMITTEES  
Ways and Means  
Banks  
Local Governments  
Election Law

October 8, 2003

Chief, Regulations & Procedures Division  
Attn: Notice No. 4  
Alcohol & Tobacco Tax & Trade Bureau  
P.O. Box 50221  
Washington, DC 20091

Dear Chief:

I write in support of the 51/49 "majority" standard for flavored malt beverages (FMBs), which, I understand, TTB says is supported by the law.

I support this reasonable compromise because:

- It will promote fairness. The federal government has for two decades allowed the use of flavors containing alcohol in beers and FMBs under 6% alcohol by volume without limitation. An entire category of malt beverages with varying taste and flavor types has been developed in reliance on that and should not be harmed now by new federal regulations.
- It will ensure the continued availability of today's most popular FMB products. FMBs like Smirnoff Ice, Mike's Hard Lemonade, and Seagram's Coolers belong on retail shelves in the beer section. Establishing the dire 90-10 (0.5%) standard would force FMB brewers to make costly changes to their production process that some companies may not be able to accomplish.
- It will allow brewers to continue to satisfy consumers. According to national reporting services, the FMB category has achieved remarkable acceptance among consumers who want a bottled ready to drink beverage with the same alcohol content as beer, but do not prefer the taste of conventional beers. The category's share of grocery channel sales last summer was nearly 6% of the total beer category.
- It will ensure that tomorrow's FMB products continue to taste like the products consumers enjoy today. The use of significant amounts of flavors in an FMB allows those products to achieve the refreshing taste many consumers want. A 90-10 rule would force FMB brewers to substantially increase the amount of malted barley and other traditional ingredients used in an FMB, probably resulting in a very different tasting product.

Thank you for your consideration.

James P. Hayes

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