

<< 0041096 >>

B.P. Lesky Distributing Co., Inc.
120 Western Maryland Parkway
Hagerstown, MD 21740-5175
(301) 733-0787

August 12, 2003

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

Dear Sir or Madam:

B. P. Lesky Distributing Co., Inc. supports the proposed rule issued in March 2003 by the Tax and Trade Bureau (TTB) that outlines the alcohol content requirements in

order for flavored malt beverages (FMB) to be classified as beer. Specifically, the TTB proposes that for an FMB to be classified as beer, its alcohol content from distilled alcohol cannot exceed 0.5%.

Throughout our nation's history, beer has been regulated and taxed differently than other alcohol beverages. The TTB regulation will clarify and ensure the integrity of beer and contribute to the long-term viability of the FMB category. This new regulation will not harm the FMB market. Many suppliers have already reformulated several products to the proposed regulation specifications and matched taste. The TTB proposed rule is consistent with the historical interpretation of what constitutes beer. Adoption of the TTB "0.5 by volume standard" would ensure the integrity of beer and the brewing process.

Consistent regulatory policy is important because while states enjoy regulatory power over alcohol, most follow federal regulatory guidelines. The reason for the regulation is simple. .Regulators, Congress and consumers will have a clear understanding of what beer is and what beer is not. I'm proud to mention that the Maryland Alcohol Beverage Commission fully supports the rule change and I echo our tax director's observation that it "seems inherently unfair to tax a product as a 'malt beverage' when the majority of the alcohol by volume contained in the product is from distilled spirits (flavoring or otherwise)." Equating beer and beverages that

derive a majority of their alcohol content from distilled spirits could weaken the important distinctions between beer and products with higher alcohol content.

If traditional distinctions disappear, it will only be a matter of time before other producers of alcohol beverages attempt to categorize themselves as beer products.

B. P. Lesky Distributing Co., Inc. encourages the TTB to give final approval to the proposed 0.5% standard on FMBs and ensure that the integrity of beer remains.

Sincerely,

Matthew Lesky
Vice-President Operations

