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Kids are getting high, sick from hemp products sold at convenience stores. N.J. tries to stop it.

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9–11 minutes

Michael Gillespie recalled how frantic he was looking for his 14-year-old son, who had gotten lost in the woods after buying an intoxicating hemp product from a convenience store.

“It was 21 degrees and it took us 11 and a half hours to find him,” said Gillespie, of Washington Township, his hands shaking and his feet tapping into the Statehouse carpet after a state Senate vote at the end of June. “When we found him, he was blue.”

Gillespie’s story, along with the work of a coalition of parents, mayors, law enforcement and cannabis businesses, prompted both houses of the state Legislature to pass a bill ([S3235](#)) designed to take intoxicating hemp products off the shelves of convenience stores and gas stations in New Jersey that gained a reputation for selling to minors.

They cheered its passage. Gillespie hugged some of the senators who voted for it.

Lobbyists for the hemp industry, however, say the measure goes too far, may face court challenges, could hurt legitimate shops and

put hemp farmers out of business.

Both the state and federal governments in recent years legalized products made from hemp, seen as a non-intoxicating cousin to weed that can offer some of the anti-inflammatory and calming properties of the plant. It can also be used for industrial purposes.

The big selling point was that hemp, unlike weed, wouldn't get you high. But a loophole in the laws actually allowed intoxicating hemp products. And unlike legal weed and liquor, they are not regulated and can be found on the shelves of gas stations and convenience stores.

The problem was that a compound in the plant known as Delta-9 was originally measured to determine if it is considered hemp and not cannabis. But the plant actually has more than 100 chemical compounds known as cannabinoids — and many more could be intoxicating without a high amount of Delta-9 by utilizing a bit of chemistry.

As long as manufacturers kept the Delta-9 compound levels low — at no more than .3% — they could use other intoxicating cannabinoids and still be in compliance with federal law. Some call this the “bathtub gin of weed,” a reference to the sometimes-dangerous concoctions made when alcohol was outlawed during Prohibition. A common alternative substance used to raise THC levels is Delta-8, a compound similar to Delta-9.

Delta-8 is generally less potent than Delta-9 in its natural form, but through chemistry, it can be processed into something that exceeds what's typically sold in most legal cannabis dispensaries.

For example, a licensed weed dispensary might sell a product that's at 40 milligrams of Delta-9, but corner stores and gas

stations might sell products that contain 400 milligrams of Delta-8 — a level some experienced cannabis users would find challenging. When kids take that much all at once, they end up in hospitals.

“The lack of regulation of items containing Delta-8 THC has helped fuel a rise in cannabis-related hospitalizations and poses a threat to the health and safety of our communities, especially our children,” Senate Majority Leader [Teresa Ruiz](#), D-Essex, a chief sponsor, said after the bill cleared committee in May. “It is alarming to me that these products are readily available in stores, from your neighborhood bodega to gas stations.”

The measure was also cheered by cannabis businesses that had sunk millions of dollars into legitimate cannabis licenses. They viewed the products as competition selling in places they couldn't, and believe they give the public a bad impression of all weed products.

Under the bill, the sale of intoxicating hemp products would be immediately banned in the state to anyone under age 21.

Intoxicating hemp drinks sold by liquor stores would be overseen by the state's Cannabis Regulatory Commission and hemp stores that sold intoxicating hemp products would have to get cannabis licenses. In the interim period while those rules were being developed, those stores will have to get their products off the shelf, Ruiz said. Liquor stores wouldn't have to get cannabis licenses, but would still have to go through the CRC.

“We created a pathway and directed the CRC to consider the sale,” Ruiz said of the liquor stores after the bill's passage. “They will come up with the regulatory process.”

For years, liquor distributors have been quietly stepping into the market by selling intoxicating hemp drinks. This has worried cannabis businesses because liquor has a powerful lobby and a volume of stores that dwarf the 140-or so weed dispensaries. In addition, liquor stores are in virtually every New Jersey town while more than half of municipalities don't allow cannabis sales.

Cannabis dispensaries say this is unfair since liquor stores could potentially sell cannabis products in towns where dispensaries can't. Lobbyists for hemp stores that would be forced to get licenses say it's unfair because those stores might be located in towns that already capped or banned cannabis businesses.

Others say letting the liquor industry in on this market could help the fragile cannabis industry — if the taxed products go to a cannabis grant program that focuses on helping businesses with start-up and build-out costs. The bill does apply the sales tax on these hemp products to the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund.

Hemp lobbyists, meanwhile, say the bill would make it tough for hemp farmers to stay in business, could prompt lawsuits from out-of-state manufacturers, and would do nothing to stop online sales of the product.

The [bill](#) measures finished hemp products different than [New Jersey Department of Agriculture](#) standards. A lot of hemp products are measured for .3% during harvest, but the bill also applies that standard to finished products, known as Total THC, and includes other cannabinoids besides Delta-9, such as Delta-8 and others.

New Jersey legislators originally had their definition in line with

federal law and the state Department of Agriculture standard, but then implemented a new and stricter standard with amendments in the name of cracking down on other intoxicating cannabinoids.

Critics say a lot of finished products fall in the 1% to 2% range for Total THC, and can still be non-intoxicating. The .3% percent limit comes from questionable application of science, said cannabis lobbyist Beau Huch.

Those in the hemp industry say even the most non-intoxicating hemp products can't meet the .3% standard for a combined amount of cannabinoids. That would also include products that contain non-intoxicating compounds such as CBD, said Kristen Goedde, founder of testing lab Trichome Analytical.

"This undermines the hemp program and would eliminate the ability for full extract CBD to be produced legally in the New Jersey hemp program," she said.

Many in the industry have pushed for a more permissive threshold that would be still far below legal cannabis and the limits of what is sold in gas stations. Goedde suggested establishing a ratio of intoxicating cannabinoids to non-intoxicating ones.

In addition, critics say the bill also may run afoul of federal laws that prohibit states from putting onerous restrictions on interstate commerce or ban the sale of something that is federally legal — including hemp. Some of the hemp products making their way into the hands of kids are manufactured out of state and sent to New Jersey suppliers who say the responsibility to keep minors from buying them rests with the stores, not them.

Some have also raised concerns that the same provision could allow large companies to sell intoxicating hemp products in place

of cannabis to get around having to work with in-state cultivators. One of the state's largest cannabis companies, Curaleaf, just [announced](#) an offering of intoxicating hemp products that was slated to begin this week.

The combination of hemp concerns and potential litigation is a risky gamble, Huch said.

“It’s like shooting at a bad guy in a crowded field of people with our eyes closed, with no idea of how many people you’re going to hurt,” Huch said.

Senate Democrats declined comment when asked about criticism from the the hemp industry. The bill was sent to Gov. [Phil Murphy](#), who can sign it, veto it or suggest changes.

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