



MARIJUANA

Lawsuit seeks to overturn hemp law regulating delta-8, THC seltzers in New Jersey

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TRENTON – Less than two weeks after stringent new regulations on intoxicating hemp products were signed into, a group of six hemp manufacturers, processors and retailers are asking a judge to nullify them.

In a federal lawsuit filed against the state on Monday, the businesses argued the new hemp law "recriminalizes" the possession, manufacture and transportation of certain hemp products otherwise legal under federal law, causing the plaintiffs "immediate, irreparable financial harm."

The plaintiffs, which include Sicklerville THC seltzer manufacturer LOKI Brands and Springfield retailer Legal Leaf, argue that the hemp law will force businesses to close or lay off employees "despite the protections Congress has afforded them."

"Cantrip has done millions of dollars of sales in New Jersey. People love our products, and we believe they deserve access to them," said Adam Terry, CEO and cofounder of Massachusetts-based hemp beverage manufacturer Cantrip, another plaintiff in the lawsuit. "New Jersey could be a billion-dollar hemp THC beverage market but I don't know if it would even be worth returning to New Jersey if the entire market is kneecapped."

The New Jersey Attorney General's Office declined to comment on the lawsuit.

Other plaintiffs include hemp manufacturers Cycling Frog and Canna Aid and Apollo Sciences, a hemp processor. The six plaintiffs seeking a preliminary injunction that would stop the law from going into effect (except for the language requiring age verification)

ahead of a final decision by Judge Zahid N. Quraishi, as well as attorney and legal fees.

That 2018 federal law legalized hemp — defined as a cannabis byproduct with less than 0.3% delta-9 THC, the most common psychoactive component in marijuana. The law created a booming CBD market, but it wasn't long before shrewd entrepreneurs began creating products that were often just as intoxicating as weed — but with less than 0.3% delta-9, including products without other cannabinoids, such as delta-8.

After months of push and pull among legislators and lobbyists, Gov. Phil Murphy signed the new law regulating such products on Sept. 12, immediately limiting their sale to adults over 21 years old and establishing a 30-day deadline for retailers to pull them off the shelves.

More: NJ might take away your favorite THC seltzer, delta-8 weed under new hemp bill

Under the law, the New Jersey Cannabis Regulatory Commission has six months to draw up the rules and regulations before issuing licenses for retailers to sell intoxicating hemp products. The law includes a specific carveout for liquor stores hoping to sell THC seltzers. The drinks have become a booming part of the state's liquor industry, as much as 10% to 15% of all sales, according to the New Jersey Beer Wholesalers Association.

But in a lengthy statement accompanying the signed bill, Murphy said the bill included language that has caused "significant confusion," which could be read as exempting any intoxicating hemp product in New Jersey — creating an even larger loophole than the one that already existed — or outlawing the sale of any intoxicating hemp product created outside the state.

The plaintiffs in Monday's lawsuit agreed, specifically calling out one section defining "intoxicating hemp products" as those "cultivated, derived or manufactured in this state" including more than 0.5% "total THC" per serving, or 2.5% total THC per package.

The "total THC" standard is a new, more stringent standard that includes various types of THC cannabinoids, including both delta-9 and delta-8.

Some THC seltzer companies have already begun the process of trying to get around those limits; one manufacturer, Legally Highest, has reached out to liquor stores about new products "fully compliant with NJ's new regulations," according to a letter obtained by the *Asbury Park Press*.

But the "in this state" clause specifically creates perhaps the bigger issue, since it attempts to place restrictions on interstate commerce.

The end result is a "dizzying maze of rules that are far too complicated for ordinary citizens to navigate," the complaint states. "As a result, it is extraordinarily difficult, if not impossible, for ordinary citizens to know whether it is legal to possess or sell certain items."

Mike Davis has spent the last decade covering New Jersey local news, marijuana legalization, transportation and a little bit of everything else. He's won a few awards that make his parents very proud. Contact him at mdavis@gannettnj.com or @byMikeDavis on Twitter.