

**GOVERNOR'S STATEMENT UPON SIGNING
SENATE BILL NO. 3235
(Third Reprint)**

Today I am signing Senate Bill No. 3235 (Third Reprint), which establishes a regulated market for intoxicating hemp products and prohibits the sale of these products by unauthorized sellers and to individuals under 21 years of age.

There recently has been a proliferation of products that meet the legal definition of "hemp" due to their low concentration of delta-9 tetrahydrocannabinol ("THC") but that are intoxicating because of the presence of other forms of THC - such as delta-8 and delta-10 - often at artificially increased levels. These products are sold outside of the regulated market for cannabis even though they can have similar effects, may contain harmful chemicals and other contaminants, and often are sold without appropriate testing and labeling. Too frequently, these products are readily available to minors.

The status quo is untenable, and this bill will put an end to it. Immediately upon my signature, it will be unlawful to sell or distribute a product intended for human consumption that contains THC in any detectable amount to a person under 21 years of age. And in thirty days, it will be at least temporarily unlawful for intoxicating hemp products to be sold or distributed in New Jersey by anyone other than cannabis businesses licensed and overseen by the Cannabis Regulatory Commission.

I would have preferred to sign a bill that stopped there. Late amendments to this bill in the Legislature opened the door to the sale and distribution of intoxicating hemp beverages by holders of plenary wholesale licenses and plenary retail distribution licenses for alcoholic beverages ("alcohol licensees"), in addition to licensed cannabis businesses. These amendments create a number of challenges.

First, I am concerned that the bill requires the New Jersey Cannabis Regulatory Commission (the "Commission") to establish a new regulatory program for alcohol licensees selling intoxicating hemp beverages but does not provide the Commission with the resources necessary to establish the program. This omission raises questions about the Commission's ability to stand up a program that would expand intoxicating hemp beverage sales and distribution to alcohol licensees, let alone to do so within the timelines envisioned by the bill.

The bill also does not explicitly require alcohol licensees that sell or distribute intoxicating hemp products to comply with the many regulatory requirements that apply to cannabis businesses. These include, among other requirements, mandates

that retail employees be trained about the products being sold, that licensees maintain labor peace agreements, and that operations are consistent with municipal ordinances, including municipal ordinances prohibiting the operation of any one or more classes of cannabis establishment, or cannabis distributors or cannabis delivery services.

I am proud to have worked with the Legislature to create a well-regulated cannabis market in New Jersey, with diversely owned businesses that treat their workers, customers, and neighbors well. We must ensure that the market is not disrupted by the entry of businesses that are not required to play by the same rules. I welcome the Legislature's cooperation to meet that objective. In the interim, the Commission should ensure, to the extent permitted by law, that any regulations it adopts condition approval for alcohol licensees to sell or distribute intoxicating hemp products on compliance with regulations comparable to those that apply to similarly situated cannabis businesses.

Second, the late amendments to the bill included an amendment to the bill's definition of "intoxicating hemp product" that has caused significant confusion. Originally, the bill would have defined "intoxicating hemp product" to mean "any product cultivated, derived, or manufactured from hemp regulated pursuant to the 'Agricultural Improvement Act of 2018,' Pub.L.115-334 or the 'New Jersey Hemp Farming Act,' P.L.2019, c.238 (C.4:28-6 et al.) that is sold in this State that has a concentration of total THC greater than 0.5 milligrams per serving or 2.5 milligrams per package." The late amendments to the bill introduced the words "in this State" after the phrase "any product cultivated, derived, or manufactured." Both the original and amended versions of the bill further provide that "intoxicating hemp products" shall not "include a cannabinoid product that is not derived from naturally occurring biologically active chemical constituents and shall not include hemp products as defined in section 3 of P.L.2019, c.238 (C.4:28-8)."

Industry participants have raised significant questions about the late amendments' introduction of the phrase "in this State." Some read this amendment to mean that products may be sold in New Jersey without violating this bill, even if they would otherwise qualify as "intoxicating hemp products," provided that all or some of the cultivation, derivation, and manufacture of the product occurs outside of New Jersey. Others read the amended bill to mean that authorized sellers may sell intoxicating hemp products in the newly regulated market only if the product is cultivated, derived, and/or manufactured in New Jersey. The former reading would largely defeat the purpose of the legislation by creating an enormous loophole contrary to the Legislature's purpose in passing the bill, while the latter would implicate concerns related to the United States

Constitution's dormant commerce clause. I invite the Legislature to work with my Administration on clarifying legislation.

Over the past two and a half months, I and my team have heard from a number of stakeholders with differing views on this issue, as well as a number of legislators who supported the legislation. These discussions have convinced me that it is very unlikely that revisions to the bill would have the broad support necessary to move through the Legislature quickly. Unlike many issues, the status quo poses an immediate risk to health and safety, as these unregulated intoxicating hemp products are widely available to minors. Because the bill would address this present danger, I have concluded that the wiser course is to sign the bill now and commit to working with the Legislature to address the technical issues and other challenges in separate legislation.

Date: September 12, 2024

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor