

EASTERN CAPE RURAL DEVELOPMENT AGENCY

**PORTFOLIO COMMITTEE ON JUSTICE AND
CORRECTIONAL SERVICES**

Your Ref: ECPG Cannabis Bill Comment
Our Ref: ECPG Cannabis Bill Comment

Date: 30 November 2020

Email: cannabisbill@parliament.gov.za; vramaano@parliament.gov.za; smthonjeni@parliament.gov.za

*****ATTN: HON. V. RAMAANO & HON. S MTHONJENI*****

*****PER EMAIL ATTACHMENT*****

Dear Hon. Members of Parliament,

RE: COMMENT ON THE CANNABIS FOR PRIVATE PURPOSES BILL

- 1. We, hereby, accept your invitation to submit comments on the “*Cannabis for Private Purposes Bill*” (“the Bill”), which comments follow hereunder.**
- 2. We expressly record that we would like the opportunity to make verbal presentation/s to Parliament hereon.**

This submission is made on behalf of the Eastern Cape Provincial Government. We have engaged broadly in multiple stakeholder sessions in our province to receive feedback and inputs on the draft Cannabis for Private Purposes Bill.

3. BACKGROUND TO OUR SUBMISSION:

The Premier of the Eastern Cape, the Honorable Mabuyane in his inauguration speech stated that his provincial government was reviving the Eastern Cape Cannabis project, within the confines of South African legislations, with immediate effect and established a Provincial Cannabis Steering Committee which facilitated an Inaugural Cannabis stakeholder conference. The Department of Rural Development and Agrarian Reform (DRDAR) was tasked with leading this initiative. The MEC of DRDAR, Hon. N Meth in her 2020 policy speech to the Eastern Cape Legislature committed to acting decisively to seize the massive potential opportunities in this emerging sunrise industry.

**Uqoqosho oluzinzileyo
lukawonke-wonke**

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ECRDA BOARD Ms Lulam Nare (Chairperson), Mr Mpumelelo Ncwadi (Deputy Chairperson), Adv Phumzile Mayaphi, Mr Siyabulela Makunga, Mr Mzwandile Msoki, Ms Nomthandazo Mbete, Ms Zimkhitha Thomas, Mr Sindile Faku, Ms Nomalungelo Petela-Ngcanga, Amb Mzuvukile Maqetuka, Mr. Vuyani Jarana, Mr n dladla (CEO)

The Eastern Cape has a long and proud history of (illicit) cannabis cultivation with established knowledgeable farmers and land race genetics that are naturalized, drought tolerant and well placed to form the backbone of a new industrial and medical cannabis industry in the province.

The Eastern Cape Cannabis project started in the late 1990's when the Province pioneered industrial cannabis research in South Africa. The first focus was on industrial hemp project for fibre extraction for textile products as a specialized high value crop.

This was a national project that was launched and piloted in the Eastern Cape province in different phases. Phase 1 (1999-2005) researched the agricultural feasibility of the crop to optimize cultivation cultivars with low THC and high fibre yield in different agro-ecological zones, so as to determine the industrial applications for market & awareness, if industrial hemp can create jobs, and to determine the legal implications. In 2004 hemp oil was also extracted to test the market for the pharmaceutical and medical application products. This phase was success and resulted in a group of empowered knowledge industrial cannabis farmers that are ready to drive hemp farming in the province.

Phase 2 (2006 to 2019) was difficult as it was meant to develop the commercialization stage but was restricted due to a lack of enabling legislation to drive the sector. A challenge that we are still facing today!

The Eastern Cape Rural Development Agency has been tasked to develop a framework, strategy and business case for cannabis in the Province. A sum of R4,5 million was allocated in this financial year to support farmers with permits to acquire fencing materials and other production requirements needed by the farmers. The Agency was also tasked with a responsibility of establishing a Cannabis Technical Advisory Team to provide the scientific knowledge, commercial expertise, capacity building, training and investment mobilization required to develop a Cannabis Strategy for the Province and associated business plans to unlock this sunrise industry for the Eastern Cape, and this team has been established.

This clearly illustrates our long standing provincial commitment to developing the cannabis value chain and the potential role it can play as a tool for post Covid-19 Economic Reconstruction in our Province and the requirement for the urgent development of empowering and enabling cannabis legislation that allows us to unlock this considerable natural resource in our province for the benefit of our people.

We humbly request the opportunity to make oral representation to the Justice & Correctional Services Parliamentary Sub Committee on our proposed way forward for inclusive cannabis regulation in SA.

4. COMMENT ON THE PROPOSED BILL:

Our comments are divided into two sections where we make inputs directly relevant to the proposed bill and proposed amendments or items for inclusion in the bill.

4.1 COMMENTS RELATED TO THE PROPOSED BILL:

4.1.1 Public Participation & Consultative Process:

Learning from comments made by farmers and other Cannabis stakeholders in the Province, it was highlighted that the Bill was formulated without any public participation process and it was reiterated in our stakeholders engagement sessions that the proposed bill would be better suited going through a Section 76 of Act 109/96 and not the Section 75 route so as to ensure greater and inclusive public participation on the drafting and approval of the bill.

The proposed Bill has a substantial impact on provinces and customary and indigenous law. As such it falls within the functional areas of Schedule 4 which demand concurrent competence between National and Provincial Governments. Agriculture, Health, Education, Customary and Indigenous law all fall within the functions that enjoy concurrency.

The new law has the opportunity to provide holistic legislation as opposed to the piecemeal approach that is currently proposed by Justice. Economic and customary rights can be affected negatively as the bill currently stands.

4.1.2 Commercialisation:

The ECPG supports a single Cannabis Bill that maps out a route to commercialising cannabis to support;

- The industrial hemp research we have been pioneering since 1998,
- Our provinces word famous naturalised genetics and
- Our experienced farmer base

The current draft bill delays the implementation of cannabis commercialisation until such time as additional legislation is developed by the Departments of Agriculture, Land Reform and Rural development as well as the Department of Trade & Industry to enable and regulate the cannabis industry development thereby stalling President Ramaphosa's commitment in his 2020 State of the National address wherein he acknowledged that cannabis farming happens throughout the country pledged to "open up and regulate the commercial use of hemp products, providing opportunities for small-scale farmers".

4.1.3 Alignment with Social Welfare Drug Policy:

The ECPG notes that the Drug Master 2019 to 2024 seeks to reposition cannabis and all drug use as a social issue rather than a criminal issue wherein cannabis legislation should have a human rights based approach.

4.1.4 Cannabis for Private Use:

The ECPG notes with interest that the proposed Cannabis for Private Purposes Bill makes no provision for the purchase of seed to cultivate cannabis in private which raises the question as to how genetic material to grow cannabis will be procured.

It also fails to make provision for a significant percentage of our population who do not have access to private land to cultivate cannabis and therefore their access to cannabis.

4.1.5 Recommended Quantities of Cannabis for Traditional Healers and Religious Use

The ECPG notes that recommended quantities identified in the draft Cannabis for Private Purposes Bill were flagged as an issue in our stakeholder engagement for religious use and by our traditional healers. It would be remiss of us as the voice of our people not to indicate the objections they have raised in this regard.

4.1.6 Expungement

The ECPG recognises the importance of expungement of criminal records for our citizens that have criminal records for the possession of cannabis as a form of redress.

We would also like to highlight an issue that was raised and acknowledged in our Port Elizabeth stakeholder engagement as needing to be included in the new bill by State Law advisor Robbertse that relates to those convicted for dealing under Sec 5b of the Drugs Act of 1992 that was found to be unconstitutional in *S v Bhulwana*, *S v Gwadiso* in 1995.

4.2 COMMENTS RELATED TO PROPOSED AMENDMENTS & ITEMS FOR INCLUSION IN THE PROPOSED BILL

This section serves to provide key input to fast track the framework for the development of an inclusive enabling cannabis industry in South Africa and the regulations and policy required to achieve this.

4.2.1 Genetics:

South Africa is home to distinctive and world-famous land race strains such as “*Mpondo Gold*”, “*Transkei Gold*”, “*Rooibaard*”, “*Swazi Gold*”, and “*Durban Poison*” that have emerged and been conserved by traditional farmers. These genetics are naturalised, drought tolerant and should form the basis of our cannabis research and industry. These strains represent important Intellectual Property and Plant Breeders Rights that need and cannabis bill should seek to protect as part of our cannabis heritage as a matter of urgency.

4.2.2 Farmers and Farmer Support:

Strategy policy and legislation should focus on uplifting the rural poor not only large commercial farms by supporting existing farmers to enter the formal cannabis market, training new and emerging farmers on 1- or 2-hectare plots in ecological agriculture and cannabis cultivation so as to ensure long term sustainability and restore marginalized land to participate in a development state quota driven co-operative processing model

4.2.3 Agro Processing:

The Cannabis master plan should focus on unlocking the cannabis value chain as a new social compact that demonstrates the developmental state in action creating real opportunities for our people. This is a once off opportunity with agro processing hubs that support small scale farmers in different regions of the province and country so as to maximize competitive advantage of different climate and growing regions. For example, different areas will focus on growing cannabis for food, fuel, fibre and medicine aligned to existing processing and industrial capacities.

4.2.4 Cannabis Development Agency:

The United Nations Single Convention on Narcotics mandates that any country developing medical cannabis markets needs to establish a Cannabis Agency, our suggestion is that this should take the form of a national Cannabis Development Agency working as a State Owned Entity to drive the development of this sunrise industry within the ideals of the National Development Plans (NDP) for a Developmental State. On the basis that Cannabis is a South African natural resource and should be managed in an innovative new social compact that recognises the potential of this high value cash crop where the State is central to introducing modelling and controlling cannabis production so as to ensure the benefit is carried to the majority of the rural poor through a co-operative processing model.

4.2.5 Developing Local Markets:

There can be no cannabis industry in SA without developing local markets, there is an urgent need to develop the Cannabis Masterplan through a consultative process aimed at the rapid industrialisation of cannabis in South Africa based on small and emerging farmers. This is a potentially massive opportunity to create new pathways for rural development placing a hugely viable cash crop in the hands of the rural poor, marginalized and dispossessed.

5. FINAL COMMENTS:

The ECPG is advocating for policy, legislation and strategies for cannabis in our province and country that focuses on the tremendous cannabis heritage that we have at our disposal. With our world-famous seed and experienced farmers, we have the recipe for success. It is critical that we all advocate and work towards developing policies that recognizes these strengths and seeks to define African cannabis in a way that will fast track the industry and put us at the forefront of a global people centered cannabis industry to unlock the potential of this massive sunrise industry and fast track new pathways for rural development.

Cannabis offers a unique opportunity as a economic reconstruction and development tool to develop the multi billion Rand cannabis value chain in the South Africa that enables the empowerment of small scale farmers and the development of agro-processing cooperative hubs that support our district development models, regional integrated development plans and the national development plan. We are available to work together with parliament to develop policy that unlocks the potential of cannabis to benefit all our people.

We humbly request the opportunity to make oral representation to the Justice & Correctional Services Parliamentary Sub Committee on our proposed way forward for inclusive cannabis regulation in SA.

This Submission made on behalf of the Eastern Cape Provincial Government by:

***This submission developed by Nicholas Heinemann of Afristar Foundation
for the Eastern Cape Rural Development Agency, Cannabis Technical Advisory Team
with key inputs from Dr. Shishka Gallow of Labat Healthcare , Prince Leslie Sicgau and Anelisa Dabula of the
Pondoland Cannabis Corporation***

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Appendix 1

Dr Shiksha Gallow / Labat Healthcare – Cannabis for Public Health and Farmer Empowerment

Appendix 2

Prince Leslie Sigcau / Pondoland Cannabis Corporation - The impact of the Proposed Bill on Traditional Leadership and Traditional Healers

Appendix 3

Cannabis Development Council of SA / Afristar Foundation - Perceived Socio Economic Shortcomings of the Cannabis for Private Purposes Bill

Appendix 4

Eastern Cape Rural Development Agency Cannabis Technical Advisory Team report on stakeholder engagement sessions

Appendix 5

Afristar Foundation - An Overview of the Economic Potential of Cannabis in the Eastern Cape

Appendix 6

Afristar Foundation – Actions to Support the Development of an Enabling Cannabis Framework in Eastern Cape and Nationally