

**Provincial Public Hearings Report on the Tobacco Products and Electronic Delivery Systems  
Control Bill [B33 - 2022] Portfolio Committee on Health March 2024**

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**LIST OF ACRONYMS**

<b>DOH:</b>	Department of Health
<b>FCTC:</b>	Framework Convention on Tobacco Control
<b>FDA:</b>	Food and Drug Administration
<b>GBV:</b>	Gender-based violence
<b>NDP:</b>	National Development Plan
<b>NHI:</b>	National Health Insurance
<b>NEDLAC:</b>	National Economic Development and Labour Council
<b>NGOs:</b>	Non-profit organisations
<b>UHC:</b>	Universal Health Coverage
<b>WHO:</b>	World Health Organization

## EXECUTIVE SUMMARY

The Tobacco Products and Electronic Delivery Systems Control Bill [B33 – 2022], was tabled in Parliament on 9<sup>th</sup> December 2022 and subsequently referred to the Portfolio Committee on Health (“the Committee”) for consideration. The Bill seeks to strengthen public health protection measures, align the South African tobacco control law with the World Health Organization Framework Convention on Tobacco Control and to repeal the Tobacco Control Act, 1993 (Act No. 83 of 1993) and its amendments. The Bill seeks to introduce 100 percent smoke-free indoor public places and certain outdoor areas; ban the sale of cigarettes through vending machines; introduce plain packaging with graphic health warnings; ban the display of products at point of sale; and regulation and control of electronic nicotine delivery systems and non-nicotine delivery systems.

To give effect to Parliament’s constitutional mandate of facilitating public involvement, the Committee embarked on an extensive public participation process, which commenced with a call for written public submissions on the Tobacco Products and Electronic Delivery Systems Control Bill. The Committee also hosted public hearings between 18 August 2023 and 11 February 2024. These included visits to 19 municipalities in seven provinces of the country (North West, Limpopo, Mpumalanga, Free State, Gauteng, Eastern Cape and Western Cape).

A total of 5 373 members of the public attended the public hearings. The Committee received 756 oral submissions from the public during the hearings. Of these, 348 (46%) were in **support** of the Bill, 357 (47.2%) **rejected** the Bill and 14 (1.9%) **partially supported** the Bill. There were 37 (4.9%) participants who **did not declare** their positions on the Bill.

The provincial public hearings presented varied views on the Tobacco Products and Electronic Delivery Systems Control Bill, drawing both positive and negative sentiments.

Those in favour of the Bill shared strong sentiments that the Bill adequately deals with the regulatory loopholes for electronic delivery systems. Further stating that the vaping industry is targeting the youth and exposing them to unknown chemicals. Many supporters of the Bill emphasised the financial strain exerted by the tobacco industry on the healthcare system, stressing that the passing of this Bill will decrease the burden of tobacco-related illnesses on the healthcare sector. It was argued that the contribution of the tobacco industry to the fiscus was only R18 billion, while the health sector response is over R40 billion.

The tobacco industry’s strategic shift towards targeting the youth by enticing them with electronic devices with exotic flavours and colourful packaging, was highlighted by supporters of the Bill. This underscored the necessity for robust regulations to protect the youth from the tobacco industry and its marketing strategies. Speakers pointed out the various harmful effects of tobacco, including its contribution to climate change.

The viewpoints among those opposed to the Bill hinges on that the Bill has a potential to exacerbate poverty, unemployment, tax evasion and increase crime rates. It was argued that the Bill in its current version criminalises smoking, as it does not recognise alternatives like harm reduction therapies such as vaping. Many of the speakers were of the view that the ramifications of the Bill are going to be adverse, by shrinking the tobacco industry thus affecting the overall fiscus. There were sentiments that the Bill discriminates against smokers, tobacco traders and those who perform rituals as part of their culture.

Critics of the Bill highlighted that the Bill should address illicit trading as these traders sell their products to the youth, as they are not regulated. It was argued that the Bill does not delineate between combustibles and non-combustibles. Other viewpoints were that the Bill does not consider scientific evidence that vaping is less harmful than nicotine, further noting that nicotine is addictive but not toxic. The Bill should be scrapped because it is not going to achieve its intended objectives.

Participants shared common views about the importance of addressing the gaps in existing regulations that permit minors to access tobacco products. Education awareness programmes should be introduced in schools to educate school-going children about the dangers and harms of tobacco products.

Other speakers expressed perceived flaws on the procedures of the Bill. It was stated that the Bill should be submitted to NEDLAC (National Economic Development and Labour Council) for further consultation, and stakeholder engagement should be broadened. A new Socio-Economic Impact Assessment should be conducted as the one conducted in 2018 is outdated. A cost benefit analysis on the Bill should be conducted. Notices for the public hearings should be issued five weeks prior to the hearings. Copies of the Bill/information should be distributed to communities before the public hearings, so that the public can make meaningful input.

## **1. INTRODUCTION AND BACKGROUND**

The Tobacco Products and Electronic Delivery Systems Control Bill [B 33 – 2022] was introduced in Parliament on 9<sup>th</sup> December 2022, and subsequently referred to the Portfolio Committee on Health for consideration. Section 59(1)(a) of the Constitution, provides that the National Assembly must facilitate public involvement in the legislative and other processes of the Assembly and its committees. As such, Parliament has an obligation to facilitate public participation in its processes and that of its committees. Each Committee has the discretion to determine how best to fulfil this Constitutional obligation.

The Portfolio Committee on Health therefore sought to increase access and improve the quality of participation through informing, educating, consulting and involving the public in the processing of the Tobacco Products and Electronic Delivery Systems Control Bill. The Committee embarked on an extensive public participation process, which commenced with a call for written public submissions on the Tobacco Products and Electronic Delivery Systems Control Bill. The Committee also hosted public hearings in 19 municipalities of seven provinces (North West, Limpopo, Mpumalanga, Free State, Gauteng, Eastern Cape and Western Cape) between 18 August 2023 and 11 February 2024.

### **1.1. Key aspects of the Bill**

The Bill seeks to repeal the Tobacco Products Control Act, No. 83 of 1983 and its three amendments (1999, 2007 and 2008). The current Bill will close the loopholes and address certain aspects not covered by the primary Act. The Bill aims to, amongst other things, to bring tobacco legislation in line with current developments internationally; by regulating smoking, the packaging, sale and advertising of tobacco products and electronic delivery systems.

The objectives of the Tobacco Products and Electronic Delivery Systems Control Bill [B33 – 2022] are to:

- Regulate smoking;
- Regulate the sale and advertising of tobacco products and electronic delivery systems;
- Regulate the packaging and appearance of tobacco products and electronic delivery systems and to make provision for the standardisation of their packaging;
- Provide for standards in respect of the manufacturing and export of tobacco products and electronic delivery systems;
- Prohibit the sale of tobacco products and electronic delivery systems to children;
- Prohibit the free distribution of tobacco products and electronic delivery systems;
- Prohibit the sale of tobacco products and electronic delivery systems by means of vending machines; and
- Provide for matters connected therewith.

### **1.2. Purpose of the report**

This report aims to document the viewpoints, opinions and suggestions made by members of the public, stakeholders and interested/affected parties during the provincial public hearings on the Tobacco Products and Electronic Systems Control Bill.

## 2. PUBLIC PARTICIPATION PROCESS

The Committee conducted public hearings in 19 municipalities in seven (7) provinces (North West, Limpopo, Mpumalanga, Free State, Gauteng, Eastern Cape and Western Cape), from 18 August 2023 to 11 February 2024, as shown in Table 1 below. The guiding principle that underpinned the public hearings was to facilitate effective public participation.

In terms of the processes, two to three municipalities were selected in each province and the hearings were held from Friday to Sunday. The choice of the municipalities was informed by the following variables: areas with tobacco farms and industries as well as the centrality of the municipality for accessibility.

The Committee received oral submissions from individuals who represented community members, tobacco industry stakeholders, traditional leaders, civil society organisations, non-profit organisations, traditional practitioners, medical professionals, research organisations, tertiary institutions, hospitality industry, informal traders, organised unions, political organisations, lobby groups and other interested parties.

**Table 1: Distribution of the provincial public hearings on the Tobacco Products and Electronic Delivery Systems Control [B33 – 2022]**

Week	Province	Municipality
18 – 20 August 2023	North West	<ul style="list-style-type: none"> <li>• Rustenburg Local Municipality</li> <li>• City of Matlosana Local Municipality</li> <li>• Mahikeng Local Municipality</li> </ul>
15 – 17 September 2023	Limpopo	<ul style="list-style-type: none"> <li>• Makhado Local Municipality</li> <li>• Greater Tzaneen Local Municipality</li> <li>• Polokwane Local Municipality</li> </ul>
20 – 23 October 2023	Mpumalanga	<ul style="list-style-type: none"> <li>• Mbombela Local Municipality</li> <li>• Msukaligwa Local Municipality</li> <li>• Emalahleni Local Municipality</li> </ul>
28 – 29 October 2023	Free State	<ul style="list-style-type: none"> <li>• Moqhako Local Municipality</li> <li>• Mangaung Metropolitan Municipality</li> </ul>
24 – 26 November 2023	Gauteng	<ul style="list-style-type: none"> <li>• Lesedi Local Municipality</li> <li>• West Rand District Municipality</li> <li>• City of Tshwane Metropolitan Municipality</li> </ul>
26 – 28 January 2024	Eastern Cape	<ul style="list-style-type: none"> <li>• Mquma Local Municipality</li> <li>• Enoch Mgijima Local Municipality</li> <li>• Buffalo City Metropolitan Municipality</li> </ul>
09 & 11 February 2024	Western Cape	<ul style="list-style-type: none"> <li>• Witzenberg Local Municipality</li> <li>• Drakenstein Local Municipality</li> </ul>

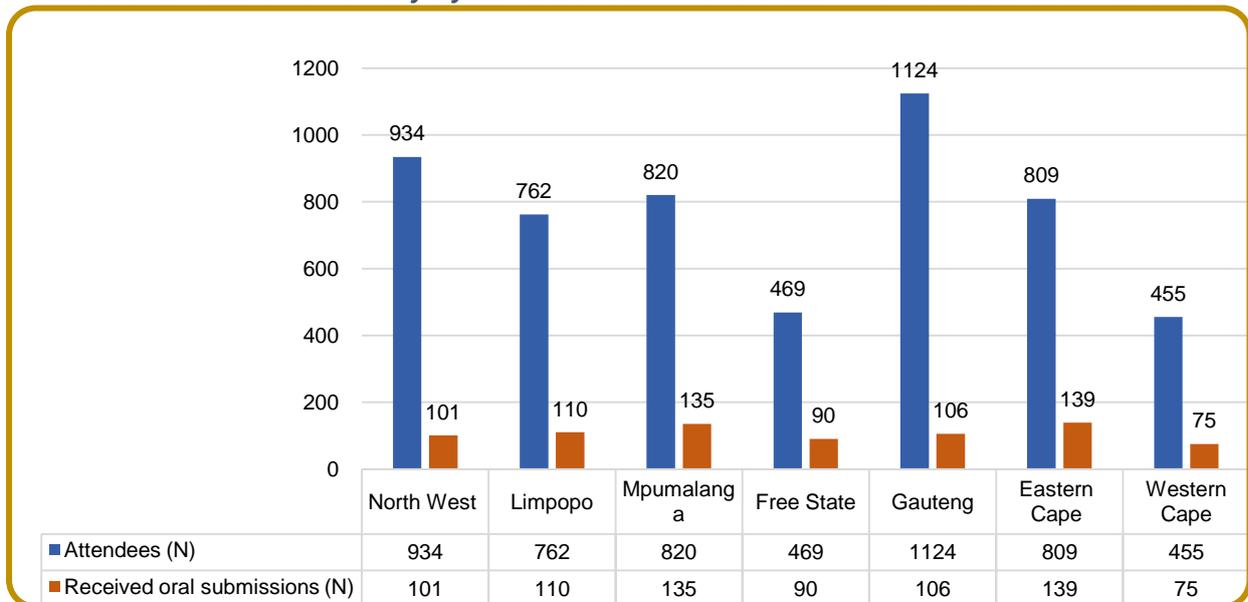
### 2.1. Statistical Analysis

The section below depicts the overall picture of the public hearings across the seven provinces.

### 2.1.1. Attendance and participation

For the provincial public hearings on the Tobacco Products and Electronic Delivery Systems Control Bill, a total of 5 373 members of the public attended the public hearings in seven provinces of South Africa. In terms of participation in the hearings, of the 5 373 participants, 756 made oral submissions, constituting 14.1% of the total number of attendees across the provinces. Figure 1 below depicts the total number of people who attended the public hearings and those who made oral submissions.

**Figure 1: Total number of people who attended the provincial public hearings on the Tobacco Products and Electronic Delivery Systems Control Bill and those who made oral submissions.**



As shown in Figure 1, Gauteng had the highest number of attendees at 20.9% (1 124), followed by North West at 17.4% (934), Mpumalanga and Eastern Cape were third and fourth at 15.3% (820) and 15.1% (809) respectively. Attendance in Limpopo was at 14.2% (762). It is important to note that Free State and Western Cape had the least number of attendees, 8.7% and 8.5% respectively, as the Committee only conducted the public hearings in two local municipalities in these provinces.

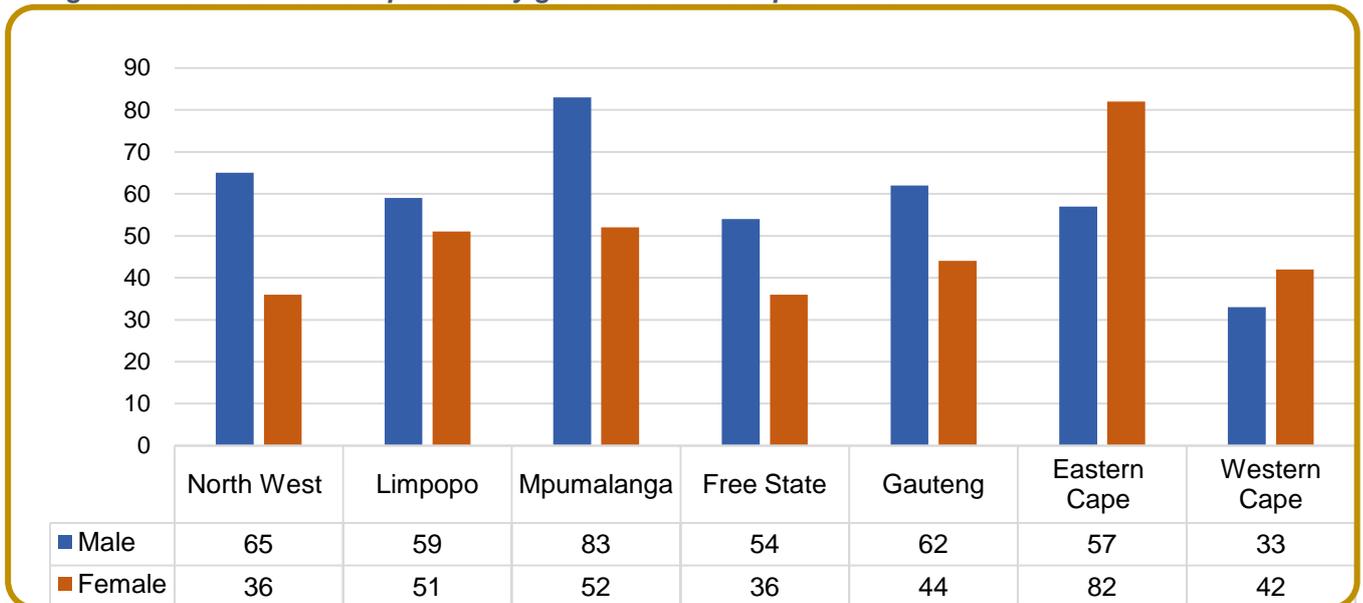
In terms of oral submissions, Eastern Cape had the most speakers at 18.4% (139), followed by Mpumalanga with 17.9% (135). Other provinces that followed in descending order were, Limpopo (14.6%), Gauteng (14%), North West (13.4%) and Free State (11.9%). Western Cape had the least number of speakers (9.9%).

### 2.1.2. Gender and youth representation

Of the 756 participants who made oral submissions in the seven provinces, 54.6% (413) were males and 45.4% (343) females. The Eastern Cape and Western Cape had predominantly female speakers as compared to the other provinces. Figure 2 below shows the gender representation of speakers at the public hearings across the seven provinces.

Although statistics on youth were not recorded, it is important to note that there were a number of young people who made oral submissions.

**Figure 2: Total number of speakers by gender across the provinces.**



**2.1.3. Overall position on the Bill**

Of the 756 oral submissions across the seven provinces, 348 (46.0%) supported the Bill, 357 (47.2%) rejected the Bill, and 14 (1.9%) partially supported the Bill. There were 37 (4.9%) participants who did not declare their position on the Bill. Figure 3 below shows the overall position of the members of the public and stakeholders on the Bill across the seven provinces.

**Figure 3: The overall position of members of the public on the Bill.**

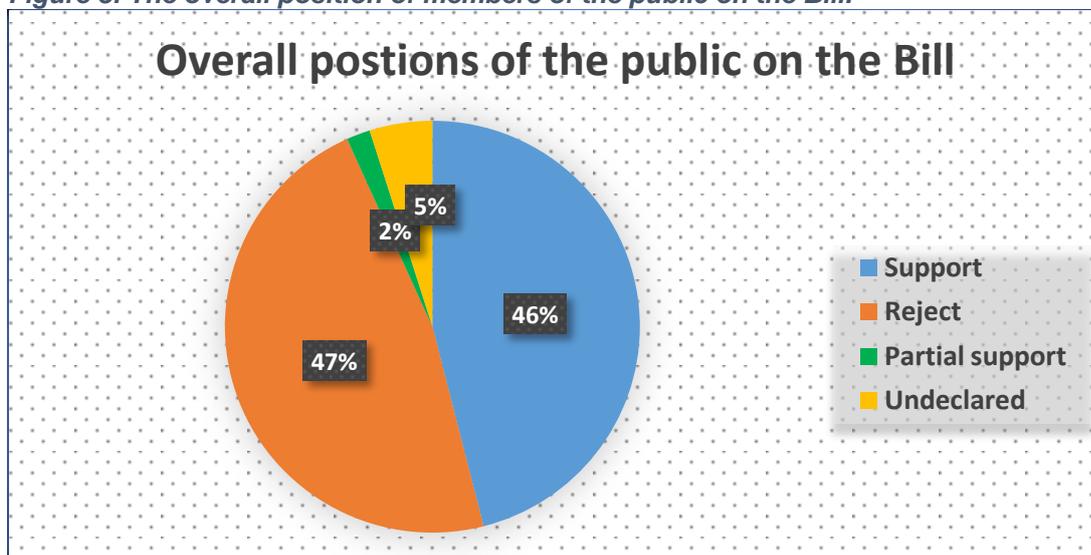
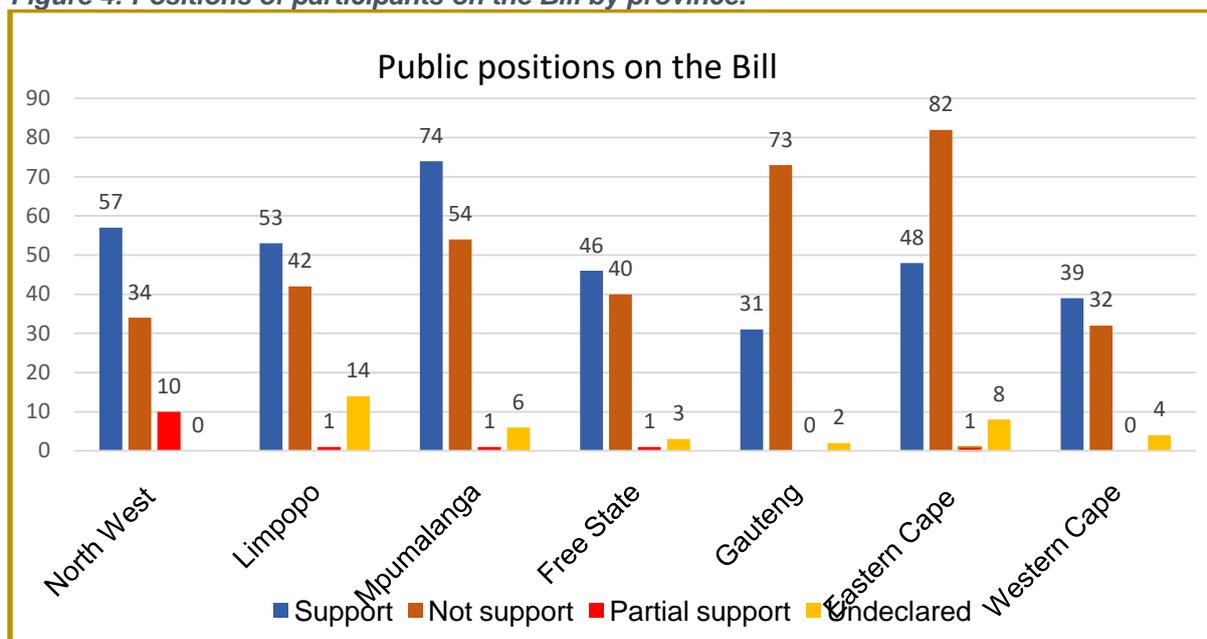


Figure 4 below depicts the provincial breakdown on the positions of members of the public by province. In terms of the support for the Bill, Mpumalanga had the majority (21.3%) of the participants who supported the Bill, followed by North West (16.4%), Limpopo (15.2%) and Free State (13.2%) and Western Cape (11.2%).

Provinces that rejected the Bill were Eastern Cape and Gauteng, constituting 23% and 20.4% respectively (as shown in Figure 4).

**Figure 4: Positions of participants on the Bill by province.**



### 3. SUMMARY OF VIEWS ON THE BILL ACROSS PROVINCES

This section summarises inputs received from members of the public and interested stakeholders during the public hearings held across the seven provinces. It articulates the positions, viewpoints and perspectives put forward by the members of the public in support of, not in support of, partial support of, specific comments, as well as key issues for consideration in respect of the Tobacco Products and Electronic Delivery Systems Control Bill. It is important to note that some members of the public did not limit themselves to submitting input on the Bill, they also used the platform to present their views on public service delivery issues.

#### 3.1. NORTH WEST PROVINCE

##### 3.1.1. Views Supporting the Bill

###### **Regulation of tobacco products:**

- The Bill does not ban tobacco, rather advocates for control and regulation of both tobacco and electronic delivery systems.
- There were strong sentiments that the Bill adequately deals with the regulatory loopholes for electronic delivery systems. Further stating that the vaping industry is targeting the youth and exposing them to unknown chemicals.
- There were views that tougher punishments are necessary to ensure compliance.

###### **Public health concerns:**

- Imposing smoking restrictions is crucial for public health and safety.
- There were views that the Bill emphasised the financial strain exerted by the tobacco industry on the healthcare system, thus the passing of this Bill will decrease the burden of tobacco related illnesses on the healthcare sector.
- A revelation was made that approximately 27 000 deaths each year in South Africa is directly related to tobacco use. The high mortality rate linked to tobacco served as a driving force behind the urgency of enacting comprehensive tobacco control measures.
- There were views that the reduction in tobacco farming would be beneficial to the ecosystem.

### ***Protection of children and youth:***

- Children can easily order tobacco products and electronic delivery systems such as vapes online on Apps such as Uber Eats. This points to the gap in existing regulations that allow minors to access and order such harmful products.
- Children perceive hookah pipes as less harmful due to their pleasant flavours and colourful displays, thus necessitating the regulation of the tobacco products such as hookah pipes and vapes.
- There were concerns that the use of tobacco by young people is a gateway to more harmful drugs.

### ***The tobacco industry:***

- The tobacco industry's strategic shift towards targeting young individuals was highlighted. Further noting that the industry is facing a decline in long-term smokers, has thus begun to focus on new customers, particularly youth. This underscored the necessity for robust regulations to counter these predatory marketing tactics.

### **3.1.2. Views Opposing the Bill**

#### ***Powers of the Minister:***

- The scope of the regulatory powers of the Minister should be clarified.

#### ***Regulation of different tobacco products:***

- The grouping of different tobacco products, such as conventional tobacco products and vapour products is inappropriate. These should be regulated differently.

#### ***Illicit trade:***

- The Bill should address the proliferation of the illicit trade market that could cost the country billions in tax revenue.
- Government is benefitting from illicit traders hence they were rushing in processing this Bill.
- It was cited that the Covid-19 lockdown highlighted how over-regulation can lead to increased consumption of illicit tobacco products.

#### ***Economic impact:***

- There were views that the Bill could slash tax collections rates and shrink the tobacco industry thus affecting the overall fiscus.
- The Bill will affect economic activities such as the manufacturers of boxes, packaging materials and vending machines, and this would lead to job losses in a country needing more employment.
- Others argued that the Bill looks good in respect of health but does not address the economic side.

#### ***Procedural issues:***

- Proper processes and engagements should be conducted by the Department of Health before the Bill can be considered.
- The 2022 Bill that was introduced and referred to Parliament is different from the 2018 Bill that was published for public comment by the Department of Health.
- The Bill must go back to NEDLAC for proper consultation.
- A Socio-economic Impact Assessment on the Bill was not conducted on the 2022 Bill whereas it was conducted on the 2018 version.

- The Bill has not been submitted to other government departments such as the Department of Trade and Industry and the South African Police Service who will be impacted by its implementation.

### **3.1.3. Views in Partial Support of the Bill**

#### ***Illicit trade:***

- Although tobacco contributes to revenue in the form of tax to the government coffers, there are concerns about the proliferation of illicit tobacco that enters the country through the involvement of some senior government officials.
- Lack of reporting channels to report the illicit sale of tobacco products.

#### ***Informal traders:***

- The focus of the Bill should be directed to spaza shops or informal traders that do not pay taxes yet sell tobacco products to children.

#### ***Strengthening regulations:***

- Government should strengthen the regulation of the manufacturing sector and not give them a blank cheque.

### **3.1.4. Specific Comments on the Bill**

#### **• *Health warnings:***

- It is important to have clear health warnings based on research and in all official languages.

#### **• *Standardised packaging:***

- The proposed standardised packaging could prevent producers from targeting young people, which should reduce consumption and further protect them from the harm of tobacco use.
- There were concerns that standardised packaging could also promote the sale of illicit and substandard tobacco products that could harm consumers.

#### **• *Vending machines:***

- The proximity of vending machines to educational institutions was a concern.
- A significant number of vending machines are located within a 5-kilometer radius to schools, emphasising the need for regulations that safeguard the well-being of young children.

#### **• *Offences and penalties:***

- There is a need for stringent measures on offences and penalties to deter non-compliance and ensure adherence.
- Others argued that the fine or imprisonment for those failing to comply with clause 4(3)(c) was extremely harsh and would negatively affect traders who sell loose or single-stick cigarettes.

### **3.1.5. Key issues for consideration**

- The Bill is not specific on the scope of the Minister's regulatory powers.
- There is a need to consider alternative crops to farm instead of farming tobacco.
- The fast-tracking and implementation of the Bill was emphasised.
- Research should be conducted before the restriction of electronic non-nicotine and non-nicotine delivery systems and the research that conclude that these products are safe should be prioritised.
- The financial implications of implementing the Bill should be conducted.

- There is a need for education and awareness on the harmful nature of tobacco products, particularly in schools. Imparting knowledge about the adverse health effects of smoking at an early age is crucial in preventing future tobacco-related health issues.
- The Department of Health should ensure that there are rehabilitation centres closer to communities, for people who wish to quit smoking.
- Government is inadvertently enabling grant recipients to use their grant fund to buy tobacco products.

### **3.1.6. Service delivery issues**

- Unemployment remains high, especially among the youth.
- Overcrowding and congested spaces in informal settlements/ dwellings needs to be addressed.
- Societal issues such as disrespect by the youth towards their elders is a concern.
- Social grant of R350 is not sufficient to sustain and support families.

## **3.2. LIMPOPO PROVINCE**

### **3.2.1. Views Supporting the Bill**

#### ***Regulation of tobacco products:***

- It is a good and timely intervention by government to ensure regulation of the products that are coming into the market, for example, electronic and e-cigarettes, which are often promoted as posing less risks to the health of the users of the products.
- The Bill will encourage smokers to be considerate of non-smokers, children, pregnant women, and other vulnerable persons who are affected by second-hand or secondary smoking.
- Submitters, mostly parents, raised concerns that tobacco products sellers sell to children who are underage. There were concerns that children smoke at schools, and this makes them lose tuition time as they spend time smoking behind ablution facilities. This impacts their academic performance and affects non-smoking learners through secondary smoking, and some drop out from school.
- It was argued that cigarette smoking is a gateway to smoking hard drugs as children are initiated into smoking by starting with cigarettes.
- Some argued that smoking cigarettes by children has contributed to theft in the families and communities because they want money to feed their addiction.
- It was also submitted that other cigarettes sold to young people contain “nyaope” and hence the spaza shops that sell such cigarette have more customers.
- The Bill does not seek to ban the manufacturing and use of tobacco products and electronic delivery systems, but to protect public health.

#### ***Public health concerns:***

- The Bill does not seek to ban the manufacturing and use of tobacco products and electronic delivery systems, but to protect public health.
- Profits should not be put before the health of the citizens, in the main, young people are the future of the country.
- There are manifestations of oral diseases linked to tobacco use and that it has a significant impact on the quality of life, general health, and the well-being of affected individuals.

#### ***Economic impact***

- Poor health will also impact economic growth due to economically active persons who are not in good health and unable to work and exacerbates premature deaths due to the usage of tobacco products.

#### ***Impact on the healthcare system:***

- The cost to government to address the burden of tobacco-related diseases is huge and is more than the tax revenue generated from the tobacco industry.

- The cost of managing chronic conditions-related to tobacco use is estimated at R42 billion per annum, a cost that is both unsustainable in the long-term and threatens the sustainability of local efforts to fund universal health coverage (UHC) through the National Health Insurance (NHI).
- Health costs shouldered by government will be reduced when there is a reduction in tobacco products usage.

### **3.2.2. Views Opposing the Bill**

#### ***General sentiments on the Bill:***

- There were views that the Bill is outdated and has not factored in the context brought about by the Covid-19 pandemic and illicit cigarette trading.
- It was argued that the Bill is a waste of taxpayers' money and time and advised Parliament to use this money to improve the quality of education and address other service delivery challenges faced by communities.
- There were arguments that Parliament has neglected important issues such as the influx of drugs, which has killed the future of many children and caused other social ills in the communities and has focussed its energy on tobacco products.
- Some argued that the Bill is bullying the tobacco industry value chain.
- It was suggested that if government wants to alleviate cancers by passing this Bill, it should then ban every other thing that causes cancer.
- Adult smokers choose to smoke by choice, they know the risks and the harm smoking can do to their health, but they still choose to smoke.
- Some questions were raised on whether research was conducted to inform the proposals of the Bill.
- Others argued that South Africa should stop being dictated by foreign countries and the World Health Organization (WHO), who are out of touch with the socio-economic conditions of the country and its citizens.

#### ***Economic impact:***

- The Bill will put many people out of jobs in tobacco farms, manufacturing of tobacco-related products, transportation of tobacco-related products, advertising, informal traders, and street vendors and will affect those who generate income from the selling of tobacco-related products.
- The Bill will impact tax revenue collection as it will shrink the tobacco product-related market, which will negatively impact the provision of effective service delivery in the country. An example was made of the statement by the Minister of Finance announced publicly that government is running shot of money.

#### ***Illicit trade:***

- The Bill will promote illicit cigarette trading as it targets those who are legal traders of tobacco-related products.

#### ***Societal impact:***

- The Bill will increase crime as those who are dependent on the selling of cigarettes will be forced to commit crime to feed their families. The passing of this Bill will take food from the mouths of honest people.
- Taking away income from men who sell tobacco-related products will increase their stress levels, which will consequently increase gender-based violence and domestic violence.

#### ***The criminal justice system:***

- Speakers commented that the criminal justice system can barely convict petty criminals, how much more a criminal syndicate that will arise with the passing of this Bill.

#### ***Procedural issues:***

- It was argued that Government has not conducted a Socio-economic Impact Assessment on the Bill and it was also not consulted on at NEDLAC.

#### ***The public participation process:***

- Concerns were raised regarding the inadequate time provided to the participants to make their submissions.
- Inadequate time to educate community members about the Bill before the actual public hearings.
- University students were given time to express their concerns, but ordinary youth were not represented.
- It was noted that the public hearings were not doing justice to the attendees because not everyone was afforded an opportunity to speak yet their names were registered, which gave a false impression that they had participated.

### **3.2.3. Specific Comments on the Bill**

- ***Classification of nicotine in the Preamble:***

- It was argued that in the preamble of the Bill, “nicotine” is incorrectly classified as a toxic substance and proposed that this should be corrected. It was indicated that nicotine is a naturally occurring compound found in various plants, including tobacco and that it is not toxic nor is it carcinogenic. Mention was made of the US FDA (Food and Drug Administration), and the public health agency of Sweden, that have shown that it is associated with cancer or smoking-related diseases.
- It was further proposed that the preamble should only state that nicotine is addictive, however, it is not a toxic substance.

- ***Grouping of different tobacco products:***

- Some submitters raised concerns regarding the grouping of different tobacco products in one. It was suggested that they are different and should be regulated differently.

- ***Prohibition of smoking in certain areas:***

- Submitters argued that smokers are inconsiderate, by smoking anywhere, including in front of their children, pregnant women, and other vulnerable persons. The clause is fully supported because it will address secondary smoking by non-smokers, which is caused by those who smoke without considering other people around them.
- They argued that they wanted to have free tobacco public spaces, including healthy home spaces.
- Questions were raised regarding the distance and how it will be measured.
- Concerns were raised that the distance is not specified in the clause.

- ***Display, advertising, packaging and labelling of tobacco products and health warning:***

- Submitters indicated that they support the clause on the display of tobacco products. It was said that the non-display of tobacco products will discourage people from smoking, when they do not see those products on the counters.
- They noted that smokers know their products and can buy them without such products being displayed on the counters or shelves.
- Some submitters said that when children go to shops to buy sweets or chips, they are attracted by the cigarettes and end up buying them.
- On labelling, the submitters supported the graphic warnings of the harm of tobacco to discourage people from smoking.
- Some indicated that warning messages are available on the packaging, but not everyone is literate enough to understand the graphic warnings and they should be available in different languages. It was said that graphic warnings will address those who are not able to read.
- It was noted that standard plain packaging will discourage people from buying cigarettes, thus contributing to the reduction of smoking.
- They argued that the use of colourful packaging will attract children to buy tobacco products and start experimenting with cigarettes.
- On standard and plain packaging, the submitters against the proposed clause argued that having plain packaging for all tobacco products would harm the economy and the users even more.

- It was argued that plain packaging will work in favour of the illicit cigarette traders as consumers will not be able to differentiate between legal and illegal tobacco products. As a result, promote increased illicit cigarette trading and counterfeit products in the market; thus destroy the business of legal manufacturers of tobacco products as they will be labelled the same.
- **Regulation of electronic delivery systems and e-cigarettes:**
  - South Africa signed the WHO Framework Convention on Tobacco Control (FCTC) in 2005. Since then, it has been the first time that South Africa wants to align its laws with international treaties.
  - It was noted that between 2005 and currently, there are many products that came out that the current laws do not cover in their regulation, and one of such products is the electronic cigarette that many young people use.
  - Some submitters argued that hubbly and e-cigarettes are promoted as harmless alternatives to traditional smoking, but they are proved to be addictive, and as time goes by smokers revert to smoking traditional cigarette and e-cigarette. They also argued that these products are also harmful. They argued that harmful chemicals are used in these devices.
  - Young people shared their experiences on how they were introduced to hubbly and vapes and later graduated to hard drugs like “ntash” as they were no longer getting the kick, they used to get from the flavours used.
- **Impact of the Bill on the cultural and religious rights of the users:**
  - Submitters who opposed the Bill noted that the Bill will deny citizens of the country, especially Africans who use tobacco leaves and snuff to perform cultural and religious rituals. The constitutional rights to practise cultural and religious rituals will be trampled upon if this is passed.
  - They submitted that snuff is used by many to heal headaches and stop nose bleeding.
- **Poor enforcement of existing laws:**
  - It was argued that South Africa has a problem with the implementation of laws. There are already existing laws passed for tobacco products and usage control.
  - The enforcement of laws is problematic. Some argued that police are not doing their job to curtail illicit cigarette trading, which increased tremendously during the Covid-19 lockdowns. They argued that legal traders were prohibited from selling, but this has not stopped people from smoking. In contrast, it increased illegal trading.
  - Some indicated that the police take bribes from illicit cigarettes, while some police are dealers of illicit cigarettes.
- **Offences and penalties:**
  - Those against the clause argued that the penalties against transgressors are excessive, and rapists are not given the same harsh jail sentences.
  - Others argued that sending informal traders to jail for 10 years is not right, instead government should pay more attention to drug dealers.
  - Some questioned on what merits will the offenders be fined and what amount?
- **Establishment of the monitoring committee:**
  - Some submitters raised concerns that the clauses are not clear regarding the term of operation of the Committee.
  - Questions were posed regarding the reasons for having 15-member committee, who is responsible for the selection of the members and how, and the expertise required of the members.
  - Whether the proposed monitoring committee will be established at the national, provincial, and municipal levels?

#### **3.2.4. Key issues for consideration**

- A new Socio-Economic Impact Assessment should be conducted as the one conducted in 2018 is outdated and the Covid-19 pandemic has brought with it new realities that should be considered.
- The Bill should be submitted to NEDLAC (National Economic Development and Labour Council) for further consultation, and stakeholder engagement should be broadened.
- Old people, including parents, should not send children to shops/ street vendors to buy tobacco products as this will attract them to experiment with smoking cigarettes.
- Education awareness programmes should be introduced in schools to educate school-going children about the dangers and harms of tobacco products.
- Concerns raised about illicit cigarettes should be referred to the Departments of Trade and Industry, Home Affairs and Police.
- The Department of Health should draw good practices from countries like the United Kingdom, New Zealand, Australia and Sweden that have implemented some of the issues the Bill is proposing.
- There should be a consideration on balancing profits from the sales of tobacco products and public health.
- The existing laws passed to control tobacco usage and distribution should be enforced, and the police should be monitored as they take bribes from illicit cigarette traders and ignore the plight of the people.
- The Bill in its current form should be reviewed because if it is passed, it will cause more harm than good.
- Citizens should desist from building properties and renting them to foreigners who in turn use them to sell illicit cigarettes and drugs that harm communities.
- All healthcare facilities should be designated smoke-free zones, with designated smoke zones and an agreed distance from the main building and public areas.
- The Bill should be scrapped because it is not going to achieve its intended objectives.

#### **3.2.5. Service delivery issues**

- Government and Parliament should use the money it is wasting on public hearings to create jobs.
- Government should build rehabilitation centres in communities to assist those who are already addicted to substance abuse.
- Government should focus on hard drugs that are more harmful than tobacco products.
- Government should employ unemployed social work graduates to assist in many social ills experienced by communities.
- Poor school infrastructure and poor quality of education should be improved.
- There are many unemployed social work graduates from universities; however, communities are suffering because there are services that could be provided by social workers.
- Lawmakers should ensure effective support to enhance government environmental health capacity, with the appropriate deployment of environmental health practitioners across the country.

### **3.3. MPUMALANGA PROVINCE**

#### **3.3.1. Views Supporting the Bill**

##### ***General sentiments:***

- The reduction in tobacco farming will be favourable to the ecosystem.
- There is a need to consider alternative crops like sunflowers instead of tobacco farming.
- The Bill will protect the youth and communities.
- The Bill will affect black communities in townships and continue to empower the previously advantaged business.

##### ***Regulation of tobacco products:***

- The Bill does not ban the sale or the farming of tobacco, rather advocates for control and regulation of both tobacco and electronic delivery systems.
- There were strong sentiments that the Bill adequately deals with the regulatory loopholes for electronic delivery systems.
- The tobacco industry's strategic shift towards targeting young individuals was highlighted. It was further noted that the industry is facing a decline in long-term smokers, has thus begun to focus on new customers, particularly youth. This underscored the necessity of robust regulations to counteract these predatory marketing tactics.
- Speakers encouraged the regulation of the tobacco products like hookah pipes and vapes. They supported their view and noted that children perceive hookah pipes as less harmful due to their pleasant flavours and colourful displays. The Bill will therefore protect the exposure of the youth to the tobacco industry and its marketing strategies that seeks to entice them.

***Effects of tobacco products and use:***

- Imposing smoking restrictions is crucial for public health and safety.
- Approximately 39 000 deaths in South Africa each year are directly related to tobacco use. The high mortality rate linked to tobacco served as a driving force behind the urgency of enacting comprehensive tobacco control measures.
- Concerns were raised about women who smoke while pregnant, which result in terrible outcomes for children such as disabilities.
- Others expressed that that some of the health effects of smoking is erectile dysfunction, which contributes to the failure of marriages.
- Another harmful impact of tobacco is its contribution to climate change.

***Impact on the healthcare system:***

- The Bill emphasises the strain tobacco use exerts on the healthcare system, thus the passing of this Bill will decrease the burden of tobacco related illnesses on the healthcare sector.

**3.3.2. Views Opposing the Bill**

***General sentiments on the Bill:***

- Nicotine is incorrectly classified as a toxic substance, while nicotine is a natural compound found in plants including tobacco and that it is not toxic and does not cause cancer.
- The public was of the view that government is benefitting from illicit traders hence they were rushing in processing the Bill.
- Enacting this law will not make people who do not comply with the existing tobacco law suddenly comply.
- The Bill will not successfully limit the use of tobacco products.

***Illicit trade:***

- The Bill should address the issues of illicit trading as these traders are the ones who sell their products to the youth as they are not regulated.
- Tobacco farming continues to decrease from 151 hectares in 2015 to 83 hectares in 2023. This shows that the tobacco industry continues to shrink. On the other hand, the demand for smoking has increased given the easy access to illicit tobacco.

***Procedural issues:***

- Proper processes and engagements should be conducted by the Department of Health before the Bill can be considered.
- The Bill should be submitted to NEDLAC for further consultation.
- Concern was raised that a socioeconomic impact assessment on the Bill was only conducted in 2018. An updated socioeconomic impact assessment of the Bill should be conducted.
- A financial impact assessment on the Bill should be conducted.

***Regulation of the different products:***

- Concerns were raised about the grouping of different products together, such as conventional tobacco products and vapour products.
- It was argued that vaping has less harmful effect compared to conventional smoking. The Bill seems to be aiming at people to quit smoking, which is not practical as some want to explore harm reduction therapies.

***Traditional use of tobacco:***

- The use of snuff in traditional practices to appease the ancestors, will be affected if the Bill is passed.
- The real threat of this Bill is that it will affect the practice of culture as incense.

***Impact on the local economy:***

- It was argued that the law would not affect the availability of illicit cigarette but punish those that are selling cigarettes legally. If the Bill goes ahead as it stands, the local economy will be negatively impacted.

***Economic impact:***

- Tobacco farming provides longer term employment contracts of eight months. The tightening of legislation will indeed shrink the local farming sector.
- There were arguments that the Bill looks good in respect of health but does not address the economic side. The Bill should be put in abeyance for the economy to continue to thrive.
- Unemployment especially among the youth is a huge challenge, which is a major driver to the selling of cigarettes on the streets.
- The Bill will affect the income of people who work in the tobacco value chain.
- The Bill could slash tax revenue and shrink the tobacco industry thus affecting the overall fiscus. Potential revenue that would not be accrued by the State could amount to R7.8 billion. The Mpumalanga tobacco sector contributes about R18 billion to the revenue.
- The Bill when enacted, about 28 000 people are likely to lose their income.
- The entertainment industry will be affected if the Bill is passed.

**3.3.3. Views in Partial Support of the Bill**

***Illicit trade:***

- Concerns was raised about the proliferation of illicit tobacco that comes into the country through the involvement of some border officials.
- Speakers commented on the lack of detail on aspects such as how and where members of the public should report the illicit trade of tobacco.

***Informal traders:***

- The focus of the Bill should be directed to spaza shops/informal traders that do not pay taxes yet sell tobacco products to children.

**3.3.4. Specific Comments on the Bill**

• ***Prohibition of smoking in certain areas:***

- There was consensus on the restriction of indoor smoking. For instance, in taverns patrons smoke anyhow with no regard for other patrons.
- Speakers appealed for the designated areas and that those who break the law should receive harsh punishment.
- The Bill stipulates that people cannot smoke within a prescribed distance, however the distance is not specified in the Bill.

• ***Display, advertising, packaging and labelling of tobacco products and health warnings:***

- On advertising, there were views that the banning of advertising of tobacco products remains in force and this Bill aims to protect children and young people.
  - Concern was raised in relation to plain packaging as there is no evidence of the products contained, which could be harmful products.
  - There were arguments that advertising of tobacco products contribute to early inclination to tobacco intake.
  - There were suggestions on the packaging of tobacco products, that the colour red should be used, to symbolise the harm.
  - It was argued that illegal cigarettes will not be different from legitimate ones because the packaging will be the same.
  - Others argued that there is no evidence that when the cigarette packs have graphic images this will lead to lower demand for smoking.
  - There were sentiments that the proposed standardised packaging could prevent producers from targeting young people and protect them from the harm of tobacco use.
  - It is important to have clear health warnings based on research and in all official languages.
- **Offences and penalties:**
    - There were views that the Bill presents harsh penalties as they appear to have been written in anger. There were suggestions that the excessive penalties ought to be reviewed.
    - Submitters were of the view that the clauses do not provide any warning but harsh penalties or imprisonment.
    - There is a need for stringent measures on offences and penalties to deter non-compliance and ensure compliance.
- **Establishment of the monitoring committee:**
    - The monitoring committee should be decentralised.

### 3.3.5. Key issues for consideration

- The government should strengthen the regulation of the tobacco manufacturing sector and not give them a blank cheque.
- Programmes at schools should be introduced to educate children about the dangers of tobacco and smoking.
- Nicotine in tobacco products should be reduced or replaced so that its impact is not harmful.
- The Department of Health needs to properly monitor the implementation of the Bill.
- Law enforcement agencies should play a major role in enforcing the law when implemented.
- Research should be conducted on the restriction of electronic nicotine and non-nicotine delivery systems.
- The Committee should discourage the inflow of illicit products and other substance abuse. Consider other harmful substances like nyaope to be included in the Bill.
- There were views that the Department of Agriculture should help emerging farmers with alternative crops to farm other than tobacco farming.
- The new law should not be imposed on South Africans and exclude non-South Africans.
- Key issues that need to be prioritised are load shedding, unemployment and substance abuse.

## 3.4. FREE STATE PROVINCE

### 3.4.1. Views Supporting the Bill

#### **General sentiments:**

- If passed, the Bill will protect the growing youth and communities.
- Social grant recipients complain that it is not sufficient, however, they spend it on tobacco products.

- Guidelines should be included on the Bill instead of apportioning all the regulations to the Minister.

***Strengthening regulation of tobacco use:***

- The Bill does not ban the selling and farming of tobacco but seeks to regulate the industry, which is to control the availability and usage.

***Impact on the healthcare system:***

- Many speakers expressed that smoking is harmful, given the number of people who are in local hospitals because of tobacco related complications.

***Availability of tobacco products to children:***

- Concern was raised about the wide availability of electronic products to scholars, who end up bunking school to smoke vapes and hookah pipes in parks. This requires urgent attention.

***Public health concerns:***

- It was emphasised that first-hand smoking is as dangerous as second-hand smoking, which is a major public health threat.
- The use of tobacco products by young people is a gateway to harmful drugs.
- The tobacco industry contributes about 1% to the economy, which is about R12 billion, while the side-effects of tobacco are dire, and the lives lost are irreplaceable.

***Law enforcement:***

- Law enforcement should be strengthened especially against foreign nationals who are in conflict with the law of the land. As young people die as a result of all forms of tobacco products and undesired substances.

### **3.4.2. Views Opposing the Bill**

***General sentiments:***

- There were arguments that the Bill discriminates against smokers, tobacco traders and those who perform rituals as part of their culture.
- The Khoisan community does not approve the Bill due to the restrictions it poses on the use of tobacco.
- The Bill gives extensive regulatory powers to the Minister, and this is viewed as overreaching.
- The Bill stipulates that people cannot smoke within a prescribed distance, but this is not specified in the Bill.
- There were views that government is benefitting from illicit trading hence the haste to process the Bill.
- There were views that the Bill will not successfully limit the use of tobacco products.
- The Bill in its current form is encouraging people to engage in undesirable ill-practices to fend for themselves and families.
- The Bill should focus on social ills such as the use of nyaope among the youth.
- The Bill will exacerbate unemployment and force those who sell and smoke tobacco into prison.

***Procedural issues:***

- It was stated that the NDP underscores that every Bill should be presented to NEDLAC for discussion and before tabling it to Cabinet and Parliament. As such, this Bill should be consulted on at NEDLAC.

***Illicit trade:***

- The Bill should address the issues of illicit trading as these traders are the ones who sell their products to the youth as they are not regulated.

***Economic impact:***

- The Bill could slash tax collections rates and shrink the tobacco industry thus affecting the overall fiscus.
- The ban on the display of tobacco products will affect the income of the informal sector.

**3.4.3. Views in Partial Support of the Bill**

- Concern was raised about the implementation of the Bill when passed, given the porous borders, inflow of illicit tobacco products and unregulated/monitored spaza shops. As such, it was suggested that illegal shops should be closed as they sell toxic products and they do not pay taxes.
- The Bill is likely to exacerbate the high level of unemployment.

**3.4.4. Specific Comments on the Bill**

• ***Control over smoking:***

- With respect to restriction on smoking, the Bill requires provisions for proper enforcement for the intended objective to be fully achieved.

• ***Packaging and distribution of relevant and related products:***

- There were sentiments that the proposed standardised packaging could prevent producers from targeting young people and protect them from the harm of tobacco use.
- Fake cigarettes will not be different from legitimate ones because the packaging will be the same.

• ***Restriction of sales:***

- There was discontentment over the restrictions on the supply and distribution of products electronically, as more people rely on technology to buy products online.

• ***Establishment of the monitoring committee:***

- Some submitters raised concerns about the role and appointment of the Monitoring Committee which the Minister will appoint. It was stated that instead of having the Monitoring Committee – which will require excessive financial implications – it is better to work with civil society to work on the ground and assist in GBV response.
- There were arguments that the appointment of the Monitoring Committee is bias.

• ***Prohibition of smoking in certain areas:***

- Submitters agreed with the provision of designated smoking areas to ensure the protection of children and ensuring that the public has access to clean air.
- Other speakers argued that designated smoking areas should be abandoned because those who work in facilities where these areas are in place are made exposed to secondary smoking.

• ***Advertising and marketing:***

- It was stated that like alcohol, tobacco should be subjected to those stringent control and monitoring mechanisms.
- With alcohol, underage young people are not allowed to purchase it, while on the other hand, it is easy to purchase tobacco. As such, tobacco marketing should be restricted to ensure that young people are not enticed to buying and consuming it.

- **Offences and penalties:**

- The penalties were considered excessive thus needs to be reviewed.

### **3.4.5. Key issues for consideration**

- Smoking areas should be totally banned as some of the people who work in these establishments do not smoke and need to be protected.
- Government should consider alternative employment for people who are going to lose their jobs when this Bill is enacted.
- There should be a pamphlet inside cigarettes packages to warn people about the dangers of smoking as well as the contents of the cigarettes.
- Parents should not be allowed to send their young children to buy tobacco products.
- There is a need to tighten laws and monitoring with regards to the selling of illegal cigarettes.
- It was suggested that there should be licensing for selling of tobacco products and if one is found to be selling it to young children, the license must be revoked.
- Nicotine in tobacco products should be reduced or replaced so that its impact is not harmful.
- Independent research should be conducted on the restriction of non-nicotine delivery systems and the research that conclude that these products are harmful should be prioritised.
- A socioeconomic impact assessment of the Bill should be conducted.
- It is important to have clear health warnings based on research and in all official languages.
- It was stated that graphic images will encourage smokers to quit smoking, and these should be in all official languages. Further, there needs to be investment in programmes that encourage smokers to quit smoking.
- The financial implications of implementing the Bill should be conducted.
- There is a need for stringent measures on offences and penalties to deter non-compliance and ensure adherence.
- On the procedures on the Bill:
  - ✓ Clarity was sought on the Bill was not going to the House of Traditional Leaders, as it stands the Bill is discriminatory for not considering the custodians of traditional practices.
  - ✓ The Bill should be submitted to NEDLAC for further consultation.
  - ✓ A new Socio-Economic Impact Assessment should be conducted.

### **3.4.6. Service delivery issues**

- Speakers lamented on the state of Kagisano Clinic for its overcrowding, dirtiness and unhygienic ablution facilities. The poor service at this clinic was emphasized. Some residents have abandoned the clinic, opting to buy their own chronic medication.
- It was reported that there are only two clinics in Vredefort which are not able to meet the needs of the entire population due to population growth and the burden of disease. It was also mentioned that the ambulances are not sufficient to meet the community needs when required.
- The clinic in Constantia serves a sizeable population and does not provide quality health care services.
- The government should focus on youth unemployment, provision of sporting activities and agricultural sites.
- It was proposed that the government should have licenced drones to take topographical images to document the many challenges confronting communities.

## **3.5. GAUTENG PROVINCE**

### **3.5.1. Views Supporting the Bill**

#### **General sentiments:**

- It was argued that tobacco companies are exporting millions of tobacco products to countries which have stricter regulations, and they comply with those countries' laws, however, refuses to concur with the proposed legislation.
- The Bill seeks to protect the youth, as this group is easily enticed by the tobacco industry by introducing electronic devices with exotic flavours and colourful packaging.
- There was strong consensus that nicotine is toxic and should not be easily accessible. Further argued that cigarettes contribute to disease, disability and death.
- Everyone has a right to clean environment and clean air. Concern was raised relating to the behaviour of some smokers who dispose of their cigarette butts carelessly making these accessible to young children.
- Speakers emphasised that first-hand smoking is as dangerous as second-hand smoking, which is a major public health threat. Further stating that some smokers have no consideration, as they smoke anyhow in crowded and public spaces, which has an enormous impact on non-smokers.
- It was noted that young people experiment with tobacco products and end up being addicted, and ultimately transitioning to hard drugs.
- Concern was raised about teachers who smoke in school premises, setting a bad precedence for future generations.

***Impact on the healthcare system:***

- The contribution of tobacco to the country's fiscus is R18 billion, while the health sector's response is over R40 billion.

***Regulation of the tobacco industry:***

- There were views that the industry's strategy is to divert, distract and delay the process.
- Tobacco companies pay company tax just like any other company and not excise tax, which is paid by the consumer.
- Tobacco farming is a destructive process, which involves pesticides and other chemicals which are harmful to the workers.
- The tobacco industry should be innovative by investing in various agricultural products such as fruits and vegetables.
- The Bill does not ban the selling and farming of tobacco but seeks to regulate the industry, which is to control the availability and usage.
- It was suggested that tobacco traders should be licenced and if they fail to comply, their licences should be revoked.

***Illicit trade:***

- On illicit trade that the tobacco industry is bemoaning about, it was argued that illicit traders acquire their products from tobacco manufacturers that also supply legal traders.

***Public health concerns:***

- Asthmatic patients should feel safe in public spaces and not live in constant fear.
- Supporters of the Bill stated that they advocate for laws that will reduce cancer incidence in the country.
- There were strong sentiments that smoking should not take priority over public health.
- Submitters noted the importance of strengthening laws that have greater prospects of improving health outcomes.

**3.5.2. Views Opposing the Bill**

***General sentiments:***

- There were views that the Bill has a potential to exacerbate poverty, unemployment, tax evasion and increase crime rates.
- It was argued that the Bill in its current version criminalises smoking, as it does not recognise alternatives like harm reduction measures such as vaping.

- The Bill is being imposed on people, especially small local businesses that sells tobacco products and this will have dire impact on society.
- There were strong views that this Bill is a prohibition manifesto aimed at killing businesses and will not successfully reduce smoking rates.
- The Bill gives extensive regulatory powers to the Minister.
- The Bill should focus on social ills such as the scourge of nyaope and substance abuse in communities.
- The Bill discriminates against smokers, tobacco traders and those who perform rituals as part of their culture.
- There is a need for a comprehensive review of the Bill, with case studies conducted locally.
- There were notions that the Bill was drafted by international NGOs.
- Speakers acknowledged that the primary Act is outdated and that it has gaps, however, point out that there is no need to introduce a new law.
- The Bill is being imposed on people, especially small local businesses that sells tobacco products and this will have dire impact on society.

***Procedural issues:***

- The Bill should be referred back to NEDLAC for consultation with all social partners.

***Economic impact:***

- Many of the speakers were of the view that the ramifications of the Bill are going to be adverse, by shrinking the tobacco industry thus affecting the overall fiscus.
- There were sentiments that the tobacco industry contributes to local economies, and with the new law, the industry would cease to contribute to the revenue and indigent residents would be forced to pay for services.
- Others argued that unemployment and poverty are more lethal than smoking.

***Regulation of different tobacco products:***

- The Bill seeks to regulate cigarettes the same way as vaping whereas these are not the same.
- It was argued that the Bill does not delineate between combustibles and non-combustibles.
- The Bill does not consider scientific evidence that vaping is less harmful than nicotine.

***Traditional practices:***

- The Bill interferes with African traditional practices, through the potential restriction of snuff, which is used widely when engaging with ancestors.

### **3.5.3. Specific Comments on the Bill**

• ***Definitions:***

- There were arguments that the definition of nicotine is inaccurate. It was suggested that it should be corrected to state that nicotine is not poisonous but addictive, as widely published and agreed upon by various scholars.

• ***Control over smoking:***

- It was stated that the clause infringes with rights to human dignity.

• ***Packaging and distribution of relevant and related products and health warnings:***

- It was argued that scientific studies reveal that plain packaging has shown positive outcomes in reducing smoking rates, it will deter and reduce the urge to smoke or purchase tobacco products.
  - There were views that graphic images will influence the public in a positive way by educating the public on the dangers of tobacco products. These images will help smokers to quit and help young people not to initiate smoking.
  - On introducing plain packaging, it was argued that only 35% of the industry will comply and 65% will not comply.
- **Prohibition of smoking in certain areas:**
    - Submitters agreed with the provision of designated smoking areas to ensure the protection of children and non-smokers.
    - Other speakers submitted that designated smoking areas should be abandoned because those who work in facilities where these areas are in place are exposed to secondary smoking.

#### **3.5.4. Key issues for consideration**

- Government should reconsider the 100% ban of designated smoking areas as most establishments have spent money establishing and building these areas.
- Government should deal with illicit trade and should also prioritise the implementation of the current tobacco legislation (Tobacco Control Act No. 83 of 1993).
- The Department of Health should conduct an updated Socio-Economic Impact Assessment, given that the country's dynamics have changed.
- Government needs to educate people about the dangers of tobacco use instead of a total ban.
- The tobacco industry should not participate in the law-making exercise as advised by the WHO, as it presents conflict of interest.
- There is incorrect classification of nicotine and this should be corrected as nicotine is addictive but not toxic.
- Government should consider alternative employment for people who are going to lose their jobs when this Bill is enacted.
- There should be pamphlets inside cigarette packs to warn people about the dangers of smoking as well as the contents of the cigarettes.
- There is a need to tighten laws and monitoring with regards to the selling of illegal cigarettes.
- It was argued that government does not have the resources to enforce this law.
- Nicotine in tobacco products should be reduced or replaced to reduce its harmful impact.
- On the procedures on the Bill:
  - ✓ The Bill should be referred to NEDLAC for further consultation.
  - ✓ An updated Socio-Economic Impact Assessment should be conducted.
  - ✓ A cost benefit analysis on the Bill should be conducted.
  - ✓ The Committee should stop the process as it will not be able to finalise the Bill before the 2024 national elections and the Bill will lapse and thus the whole exercise would be wasteful expenditure.

### **3.6. EASTERN CAPE PROVINCE**

#### **3.6.1. Views Supporting the Bill**

##### **General sentiments:**

- Young people need to be patriotic and support the Bill and escape the health complications associated with tobacco products and e-cigarettes.
- Concerns were raised about smoke that escapes from designated smoking areas in restaurants and non-smokers find themselves being victims of secondary smoking.
- The Bill seeks to protect the youth as they are being enticed by the tobacco industry by incorporating attractive flavours into their products.

- It was argued that people who are complaining about job losses should find other products to manufacture or sell vegetables and food than tobacco products.
- Employment created by the tobacco industry is less than purported.

**Public health concerns:**

- Major concern was raised about children who smoke hookah pipes and vapes from the age of 12 years. It was also stated that 51.3% of learners are dying from cancer due to tobacco products. It was proposed that these harmful products should be made less accessible to children.
- Smokers ordinarily smoke in public spaces without any concern for non-smokers.
- Many speakers agreed that smoking is harmful, given the number of people who are in local hospitals because of tobacco related complications.
- It was emphasised that first-hand smoking is as dangerous as second-hand smoking, which is a major public health threat.
- Speakers cautioned that young women experience fertility challenges arising from the use of tobacco products.
- It was argued that e-cigarettes are perceived to be less harmful when they are as harmful and addictive.

**Regulation of the tobacco industry:**

- The Bill does not ban the selling and farming of tobacco but seeks to regulate the tobacco industry, which is to control the availability and usage.

**Impact on the healthcare system:**

- Those who support the Bill argued that the economy is likely to grow when the Act is enacted, for instance, government currently spends R42 billion to address the impact of tobacco.
- It was stated that the majority of people who have tuberculosis due to smoking do not have medical aid, they are dependent on government services. As such, government will save of money if the Bill is passed as cancer treatment is costly.

**Enforcement of the law:**

- Law enforcement at local level should be strengthened in enforcing public smoking and the control of counterfeit cigarettes.

**3.6.2. Views Opposing the Bill**

**General sentiments:**

- Critics of the Bill argued that no person is forced to smoke, people choose to smoke being fully aware of the dangers of smoking.
- The Bill does not consider those who want to quit smoking.
- There were views that the Bill is selective and unjust and tramples on human rights.
- There were arguments that the Bill discriminates against smokers, tobacco traders and those who perform rituals as part of their culture.
- It was argued that if tobacco products are banned, alcohol should also be banned.
- The Bill does not address mental health and addiction.
- The Bill stipulates that people cannot smoke within a prescribed distance, but the distance is not specified in the Bill.
- The Bill will not successfully limit the use of tobacco products.
- The Bill looks good on paper, but the implementation is complex and would not be implementable.
- The Bill is not a priority, further pointed out that government should facilitate discussions with unemployed graduates on possible short- and long-term measures to earn an income.

**Societal issues:**

- Passing the Bill will not stop children from smoking, rather they will do so without their parents' knowledge.
- There is high rate of unemployment, poverty and crime, which should be prioritised given their impact on communities.
- The Bill should focus on social ills such as the use of nyaope among the youth.

**Regulation of tobacco products:**

- The Bill seeks to regulate cigarettes the same way as vaping whereas these two are not the same.

**Illicit trade:**

- The Bill should address the issues of illicit trade as these traders are the ones who sell their products to the youth as they are not regulated.

**Economic impact:**

- It was pointed out that the closure of tobacco factories will have a negative effect on the economy, taxes will decrease, in turn affect social grants. It was proposed that government should rather retain the increases in excise tax.

**3.6.3. Views in Partial Support of the Bill**

- Smoking in public places is not properly monitored.
- Government did not adequately embark on awareness campaigns on the Bill.
- The Bill is likely to exacerbate the high unemployment rate.

**3.6.4. Specific Comments on the Bill**

• **Powers of the Minister:**

- The Bil confers extensive powers to the Minister which can cause challenges as seen during Covid-19 when the Minister would make regulations like banning of tobacco without consultation.

• **Packaging and distribution of relevant and related products:**

- There were sentiments that the proposed standardised packaging could prevent producers from targeting young people and protect them from the harm of tobacco use.
- There was discontentment over the restrictions on the supply and distribution of products electronically, as more people use on-line platforms to buy products.
- It was suggested that the packaging of tobacco and e-cigarettes should include all the ingredients contained in the products as many people are not aware that vapes contain harmful chemicals.

• **Prohibition of smoking in certain areas:**

- Submitters agreed with the provision of designated smoking areas to ensure the protection of children and ensuring that the public has access to clean air.

• **Display, advertising and marketing:**

- It was stated that like alcohol, tobacco should be subjected to stringent control and monitoring measures.
- Tobacco marketing should be restricted to ensure that young people are not enticed to buying and consuming tobacco products.
- It was stated that the ban on the display of tobacco products will affect the income of informal sector.

- **Establishment of the Monitoring Committee:**

- In relation to the Monitoring Committee, the Bill is silent about its funding model and monitoring tools.

### **3.6.5. Key issues for consideration**

- The trading of tobacco products should be regulated like that of alcohol, with licenses being confiscated for non-compliance.
- Government should address illicit trade and prioritise the implementation of the existing tobacco legislation.
- Focus should be placed on the use of harmful drugs and their impact on the youth.
- Government needs to educate people about the dangers of tobacco use rather than imposing a ban.
- Smoking areas should be totally banned as some of the people who work in these establishments are non-smokers and should be protected.
- There classification of nicotine is incorrect, and this should be corrected to indicate that nicotine is addictive but not toxic.
- Government should consider alternative employment for people who will lose their jobs when this Bill is passed.
- Independent research should be conducted on the restriction of non-nicotine delivery systems and that these products are harmful.
- It was stated that graphic images will encourage smokers to quit smoking, and these should be in all official languages. Further, there needs to be investment in programmes that encourage smokers to quit smoking.
- On the procedures on the Bill:
  - ✓ Copies of the Bill/information should be distributed to communities before the public hearings, so that the public can make meaningful input.
  - ✓ Documents should be distributed to traditional leaders so that they can educate their communities.
  - ✓ Pre-hearing sessions were poorly communicated.
  - ✓ Notices for the public hearings should be issued five weeks prior to the hearings.

## **3.7. WESTERN CAPE PROVINCE**

### **3.7.1. Views Supporting the Bill**

#### **General sentiments:**

- There were views that the tobacco industry should be innovative by investing in various agricultural products such as fruits and vegetables.
- It was noted that young people experiment with tobacco products and end up being addicted, and ultimately transitioning to hard drugs.

#### **Regulation of the tobacco industry:**

- Tobacco companies are exporting millions of tobacco products to countries which have stricter regulations, and they comply with those countries' laws, however, refuses to concur with the proposed legislation.
- The Bill seeks to protect the youth, as this group is easily enticed by the tobacco industry by introducing electronic devices with exotic flavours and colourful packaging.
- It was suggested that tobacco traders should be licenced and if they fail to comply, their licences should be revoked.

#### **Impact on the healthcare system:**

- It was argued that the contribution of tobacco to the country's fiscus is R18 billion, while the health sector's response is over R40 billion.

#### **Public health concerns:**

- There was strong consensus that nicotine is toxic and should not be easily accessible. Further argued that cigarettes contribute to disease, disability and death.
- Speakers emphasized that first-hand smoking is as dangerous as second-hand smoking, which is a major public health threat. Further stating that some smokers have no consideration, as they smoke anyhow in crowded and public spaces, which has an enormous impact on non-smokers.
- There were strong sentiments that smoking should not take priority over public health.
- Submitters noted the importance of strengthening laws that have greater prospects of improving health outcomes.

### **3.7.2. Views Opposing the Bill**

#### ***General sentiments:***

- There were views that the Bill has a potential to exacerbate poverty, unemployment, tax evasion and increase crime rates.
- The Bill in its current version criminalises smoking, as it does not recognise alternatives like harm reduction measures such as vaping.
- The Bill is being imposed on people, especially small local businesses that sells tobacco products and this will have dire impact on society.
- The Bill is a prohibition manifesto aimed at killing businesses and will not successfully reduce smoking rates.
- The Bill should focus on social ills such as the scourge of nyaope and substance abuse in communities.
- There were sentiments that the Bill interferes with African traditional practices, through the potential restriction of snuff, which is used widely when engaging with ancestors.
- There is a need for a comprehensive review of the Bill, with case studies conducted locally.

#### ***Illicit trade:***

- The Bill should address illicit trading as these traders sell their products to the youth, as they are not regulated.

#### ***Economic impact:***

- The tobacco industry contributes to local economies, and with the new law, the industry would cease to contribute to the revenue and indigent residents would be forced to pay for services.

#### ***Regulation of different tobacco products:***

- It was argued that the Bill does not delineate between combustibles and non-combustibles.
- There were views that the Bill does not consider scientific evidence that vaping is less harmful than nicotine.
- There is incorrect classification of nicotine and this should be corrected as nicotine is addictive but not toxic.

### **3.7.3. Specific Comments on the Bill**

#### ***Definitions:***

- There were arguments that the definition of nicotine is inaccurate. It was suggested that it should be corrected to state that nicotine is not poisonous but addictive, as widely published and agreed upon by various scholars.

#### ***Control over smoking:***

- It was stated that the clause infringes with rights to human dignity.

#### ***Packaging and distribution of relevant and related products and health warnings:***

- It was argued that scientific studies reveal that plain packaging has shown positive outcomes in reducing smoking rates, it will deter and reduce the urge to smoke or purchase tobacco products.
- There were views that graphic images will influence the public in a positive way by educating the public on the dangers of tobacco products. These images will help smokers to quit and help young people not to initiate smoking.
- On introducing plain packaging, it was argued that only 35% of the industry will comply and 65% will not comply.
- **Prohibition of smoking in certain areas:**
  - Submitters agreed with the provision of designated smoking areas to ensure the protection of children and non-smokers.
  - Other speakers submitted that designated smoking areas should be abandoned because those who work in facilities where these areas are in place are exposed to secondary smoking.
- **Memorandum of Objects:**
  - Speakers pointed out that 5.9 of the Memorandum is racial as it excludes Khoisan people.

#### **3.7.4. Key issues for consideration**

- The Department should conduct an updated Socio-Economic Impact Assessment, given that the country's dynamics have changed.
- Government needs to educate people about the dangers of tobacco use instead of a total ban.
- The tobacco industry should not participate in the law-making exercise as advised by the World Health Organisation (WHO), as it presents conflict of interest.
- Government should consider alternative employment for people who are going to lose their jobs when this Bill is enacted.
- There is a need to tighten laws and monitoring with regards to the selling of illegal cigarettes.
- It was argued that government does not have the resources to enforce this law.
- Nicotine in tobacco products should be reduced or replaced to reduce its harmful impact.
- On the procedures on the Bill:
  - ✓ A cost benefit analysis on the Bill should be conducted.
  - ✓ The Committee should halt the process as it will not be able to finalise the Bill before the 2024 national elections and the Bill will lapse and thus the whole exercise would be wasteful expenditure.

## **4. CONCLUSION**

The viewpoints and opinions of communities and stakeholders are central to the processing of the Tobacco Products and Electronic Delivery Systems Control Bill [B33 – 2022]. The Committee was able to conduct the public hearings in seven provinces with the exception of KwaZulu-Natal and Northern Cape. The Committee will further consider public input from written submissions which will all form part of the broader deliberations on the Bill.

Report to be considered.