

8m

**PEOPLE**  
The number of smokers  
in South Africa



Caught in the act. Picture: Jackie Claassen

## No ifs ands or butts: cigs a touchy topic

By NIVASHNI NAIR

**T**hou shalt not smoke or vape. That's the commandment from the department of health, whose "draconian" planned changes to the country's laws have smokers hot under the collar.

In his stand against smoking, health minister Aaron Motsoaledi wants offending smokers to be fined or jailed for 90 days.

He believes that banning smoking in outdoor public spaces, as well as in your home when your child, gardener or domestic worker is present, along with outlawing cigarette vending machines, will cut the country's cancer rate.

And the e-cigarette — which has replaced the nicotine habit for many people since legislation banning smoking in public was introduced in 2000 — is also set to go up in smoke.

Vaping and vending machine companies say the legislation will cripple them.

Now, with just days to go before the August 9 deadline for submission of comments, smokers say they are being herded into a nanny state by laws that could prevent them from lighting up even in their own homes, while those in favour of the Control of Tobacco Products and Electronic Delivery Systems Bill are applauding the health department's proposal.

Tonya Khoury, who smokes up to 60 cigarettes on a bad day, said the government shouldn't decide how smokers "live or die".

Referring to the 2016 Life Estimation scandal in which several state healthcare patients died from causes including starvation and neglect, she said: "We have 144 people die ... and we're concerned with smokers' smoking. We have one of the highest femicide rates in the world and we're concerned about people smoking in their cars. Where are our priorities?"

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The department admits the aim is to force smokers to quit and to deter nonsmokers from

### What are they going to do? Arrest all of the smokers? Much like e-tolls, this will not work

Tonya Khoury  
Heavy smoker

taking up the habit — mainly to lift the burden on the public health system.

But while the department is not clear on the issue of enforcement or the potential constitutional infringements of the proposed legislation, it is forging ahead.

Health department spokesperson Popo Maja said: "Some smokers want to quit whereas some see themselves as having the right to smoke, not realising that they are at times infringing on others' rights and are impacting negatively on their health." Maja said the very same smokers were putting a burden on the public health system with "illnesses caused by such behaviour".

He said smoking linked illnesses such as cancer affected families who had to take care of sick relatives and incur additional medical costs.

"In general, the legislation may slow down tobacco product sales as it will curb demand," Maja said.

Neil Kirby of Workmans Attorneys said the legal concern was whether that reach was constitutionally acceptable.

"One would have to be satisfied that the degree that the bill proposes to interfere with individual autonomy and privacy is proportional to the harm that the bill proposes to prevent," he said.

Calling the bill "extreme and draconian", Tobacco Institute of Southern Africa chair Francois van der Merwe said it was a "cut-and-paste job from First World countries", which included a retail display ban.

"This is totally impractical in the South African context. How will a street hawkker sell his cigarettes if he is not allowed to display them?"

Vapers, who held a conference in Gauteng this week, say the assumption that e-cigarettes are the same as traditional tobacco products is flawed.

"It is devoid of any scientific literature available," said Vapour Product Association of SA spokesperson Fiddi Hadebe.

But National Council Against Smoking executive director Saveria Kaldreen disagrees. "E-cigarettes have been misrepresented by the industry as healthier than combustible cigarettes, but this hides the harm that they do cause."