

TESTIMONY OF PHILLIP COSBY **OPPONENT OF HB 2502**
STATE DIRECTOR AMERICAN FAMILY ACTION OF KANSAS AND MISSOURI
KANSAS HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE January 2022

Concerning HB 2502, the ...sale, delivery of alcoholic liquor...to caterer, public venue, club or drinking establishments... I respectfully submit, while HB 2502 proposes the expansion of alcohol deliveries to clubs across Kansas and I stand opposed to the drum beat for Liquor "Modernization", this is the fitting time to give measured consideration of court upheld, reasonable, common-sense restrictions of sexually oriented clubs, and their deleterious effects being exacerbated with the pairing of alcohol.

K.S.A. 41-308 (2) sell and deliver alcoholic liquor and cereal malt beverage to a caterer or to the licensed premises of a public venue, club or drinking establishment, if such premises are in the county where the retailer's premises are located or in an adjacent county, for resale by such public venue, club, establishment or caterer; *due to the accompanying negative secondary effects of mixing alcohol and sexually oriented businesses, as defined in K.S.A. 12-770. Sexually oriented businesses are prohibited from licensing and the sale of alcoholic liquor and cereal malt beverages.*

THE ROLE OF ALCOHOL AT STRIP CLUBS: Proximity to alcohol is a key component of the criminological theory of secondary effects. Alcohol aggravates an SOB's already-high ambient crime risk by lowering the inhibitions and clouding the judgments of the SOB's patrons. In effect, alcohol makes the soft targets found at the SOB site considerably softer. The available data corroborate this expectation in all respects. Predatory criminals prefer inebriated victims, and SOBs that serve alcohol or that are located near liquor-serving businesses pose accordingly larger and qualitatively different ambient public safety hazards. Governments rely on this consistent finding of crime-related secondary effect studies as a rationale for limiting nudity in liquor serving businesses.

In light of court upheld negative effects of Sexually Oriented Businesses (SOB's) on communities, many states have put into effect statewide "Time, Place & Manner" restrictions on SOBs. This restriction is narrow.

Like restrictions were affirmed in the Supreme Court of United States. 475 U.S. 41 (1986) CITY OF RENTON v. PLAYTIME THEATRES, INC. Federal appellate cases to consider restrictions have upheld them as constitutional. The U.S. Court of Appeals for the 11th circuit in 2017 ruled that Daytona Beach ordinances restricting alcohol and nudity in sexually-oriented businesses are constitutional. Missouri SOB restriction law, upon legal challenge, the Missouri Supreme Court unanimously upheld all SOB restrictions (including alcohol) as constitutional (Ocello v. Koster 2011) .The courts have consistently recognized SOB limitations as "reasonable and common sense" restrictions.

Kansas rightly differentiates, relative to SOBs, prohibiting the spending of cash assistance at SOBs.

K.S.A. 39-709 (14)No Temporary Assistance for Needy Families (TANF) cash assistance shall be used to purchase... sexually oriented adult materials... or business... in which performers disrobe or perform in an unclothed state for entertainment, or in any business...where minors under age 18 are not permitted. Currently, in Kansas there are no age restrictions on minors entering into SOBs (amateur night).

I submit to the experience of the Revisors office for further inclusion of statutes relative to Kansas Liquor Control to uniformly effect the exclusion of alcohol from Sexually Oriented Businesses.

The proven negative secondary effects of harm, when alcohol is combined with SOBs is factually sound, constitutionally settled and common sense. A search of the subject of negative secondary effects , Sexually Oriented Business and alcohol will reap abundant evidence and law. Amend K.S.A 41-308 accordingly.