

Chairman Owens and members of the House Corrections and Juvenile Justice committee,

Thank you for taking the time to consider HB2328. It is an important piece of legislation that will save lives and give our communities tools they need to fight the growing loss of life to opioid overdose.

It's not often that we in the Kansas Legislature have the opportunity to enact legislation that will have an immediate and direct effect on Kansans – while requiring no investment of public funds. Yet by removing testing strips from the definition of drug paraphernalia, we can save and improve lives simply by updating a definition. If our compassion drives our decisions, this should be an easy one to make.

Kansas' definition of drug paraphernalia was crafted in 1981, at the height of the crack cocaine epidemic. At that time, the definition included anything that analyzed or tested for the presence and potency of a drug. This likely was necessary for law enforcement to be able to make cases when such items were present, yet the drug itself was not.

In 1981, however, fentanyl wasn't a pervasive street drug. It wasn't a substance that drug dealers could manufacture at low cost. It wasn't something that was stamped into pill form to mimic legitimate prescription drugs. And in 1981 we hadn't yet lived through a generation of over-prescribed painkillers that created the opioid crisis we face today. Our reality has shifted, and we have a duty to likewise shift our thinking and our response. Changing the definition of drug paraphernalia is a good start toward that endeavor.

I appreciate that the law enforcement community has widely acknowledged the value of testing strips, and the assurance that they won't build cases for those people trying to protect themselves from fentanyl. I fear, however, that fails to address the issue as directly as it begs. So long as the testing strips are illegal under Kansas law, we will be prevented from deploying educational resources, including testing strips, to vulnerable Kansans. HB2328 also removes from the definition testing strips for ketamine and gamma hydroxybutyric acid, or the date rape drug. While no one could argue to deny an effective tool against sexual assault, the fact remains that under current law, those, too, are illegal. Whether it's protection against assault or poison, we owe it to Kansans to enable them with available tools they can use to protect themselves from harm.

Lastly, I want to address the issue of addiction and substance misuse. Historically there has been a narrative that drug use of any kind is a choice, a lifestyle, and that it could simply be wished or willed away. We now know a great deal more about the genesis of addiction than we did a generation ago. Most often, addiction is a complex mixture of genetics, unresolved trauma, and mental health concerns.

Despite conventional thinking, it is rarely, if ever, a choice. In my work both as a journalist and a legislator, I've had the opportunity to spend a considerable amount of time with addicts in recovery. To a person, they have told me that while in the throes of addiction, they wished and prayed they could stop. They never sought out addiction, nor did they dream of spending so much time and energy battling the demons of addiction. They, like any of us, had dreams and aspirations for their lives and despite their struggles, even in the darkest parts of addiction, they hold on to the hope that someday will be different, and better.

Perhaps most compelling to me, and I hope to you, is what happens to someone who makes it out of addiction and into recovery. In my experience, recovered addicts are among the most caring, loving, compassionate, and understanding people I've ever met. In their sobriety, they turn their effort to making up for lost time, so to speak. And in this, they often serve their communities with an energy and vibrancy that is unmatched. They work to pull others from addiction and into recovery, and in this, they are compounding good at every level, in all our communities.

That is, if they can live through their addiction without falling victim to fentanyl poisoning.

Thank you for the opportunity to offer a few words on this important issue for our state. I hope you'll support HB2328 and give Kansans the tools they need to protect their lives and their futures.

Sincerely,

Rep. Jason Probst