



MISSOURI HOUSE OF REPRESENTATIVES
WITNESS APPEARANCE FORM

BILL NUMBER: HB 2210		DATE: 1/25/2022	
COMMITTEE: Emerging Issues			
TESTIFYING: <input checked="" type="checkbox"/> IN SUPPORT OF <input type="checkbox"/> IN OPPOSITION TO <input type="checkbox"/> FOR INFORMATIONAL PURPOSES			
WITNESS NAME			
INDIVIDUAL:			
WITNESS NAME: ARNIE C. AC DIENOFF-STATE PUBLIC ADVOCATE		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL: arniedienoff@yahoo.com	ATTENDANCE: Written		SUBMIT DATE: 1/25/2022 11:51 PM
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I Support this Bill and Its Intent On Its Face.			



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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: CLAUDIA COOK		PHONE NUMBER: 573-353-7206	
BUSINESS/ORGANIZATION NAME: MISSOURI RIVER REGIONAL LIBRARY		TITLE: LIBRARY DIRECTOR	
ADDRESS: 214 ADAMS STREET			
CITY: JEFFERSON CITY		STATE: MO	ZIP: 65101
EMAIL:	ATTENDANCE:	SUBMIT DATE: 1/25/2022 12:00 AM	

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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: CODY CROAN		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME: MISSOURI LIBRARY ASSOCIATION		TITLE:	
ADDRESS: 1190 MERAMEC STATION ROAD			
CITY: BALLWIN		STATE: MO	ZIP: 63021
EMAIL: ccroanlibrarian@gmail.com	ATTENDANCE: Written	SUBMIT DATE: 1/14/2022 4:16 PM	
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Chairman Patterson and Committee Members, The Missouri Library Association is submitting written testimony in support of House Bill 2210. Bills similar to this one have passed the legislatures in New York and one in Maryland was signed into law. The need for digital access to information has increased exponentially, and the pandemic has only made more acute Missourians' need for access to digital resources. HB 2210 Electronic Literary Products would provide libraries in Missouri the chance to better negotiate licensing terms and pricing of electronic literary products from publishers. A better licensing agreement that is fair to libraries in Missouri provides fair access to those resources for their communities—for Missourians. It would mean that local Missouri tax dollars go farther and work harder in providing access to information and ideas that Missourians so need. Currently, licensing terms for electronic literary products varies from one publisher and one item to the next. These licensing terms restrict how often a title is allowed to be checked out and/or allow an amount of time to pass since purchase before it must be repurchased, even though at the end of the term the title could very well be used as the file itself has not degraded in any way. For example, a library might purchase a license for one title for 12 to 24 months. At the end of that time, the library must repurchase the title to continue providing it to their users. This effort to reflect how physical books degrade and their repurchase is erroneous when compared with the life cycle of physical materials. For physical materials, the library and community determines whether the damage or degradation of the material outweighs its usefulness and relevance and whether to repurchase it. Publishers do not have control in these decisions for physical materials, whereas with licensing they determine that without library input. In addition, the library's cost of one title for an electronic literary product compared to a consumer's cost can be extremely different with no explanation. These licensing terms are not fair to public libraries, unnecessarily consume local tax dollars, and create unnecessary barriers to access these resources for library users. For example, a public library in Missouri reported that purchasing 15 best sellers as eBooks would cost about \$800 with a 2 year restriction. This means that in 2 years that same amount, or more with increasing costs, would have to be spent on these same items to allow the community to have access to those materials, even though nothing is wrong with the digital item. Those same digital materials would cost about \$200 to an individual through Amazon which provides that user a perpetual license for those items. In other instances, publishers may decide not to sell a title as an eBook to libraries at all. These decisions on time limits, checkout limits, costs, and whether to make the items available to libraries at all are made by the publisher alone. In talking with Missouri public libraries, one institution has expressed that they purchase very few to no physical audiobooks on CD anymore as they needed to move the budget for those materials to the electronic content budget to meet the demand, especially with the demand created by the pandemic. Another library has reported they moved a significant portion of their physical materials budget to eAudiobook content to meet demand,

as well. In Missouri, libraries across the state spent \$16.8 million on print materials, and spent about \$16.5 million on electronic materials. It is clear the demand for access to electronic literary products in the state of Missouri has increased and is reaching a point that library budgets are not able to keep up with demand due to the rising costs of the publishers' licensing terms. Libraries need to be able to negotiate fair licensing terms to ensure that Missourians' access to the information and ideas in digital formats are available when they need them. Thank you for your time and allowing us space to provide our testimony in support of this bill as you consider it in the Emerging Issues Committee.

Sincerely, Missouri Library Association
Claudia Cook, Missouri Library Association President
2022mlapresident@molib.org
Cody Croan, Missouri Library Association Legislative Committee Chair
2022ccroanlibrarian@gmail.com



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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: COLLEEN KNIGHT		PHONE NUMBER: 417-326-4531	
BUSINESS/ORGANIZATION NAME: POLK COUNTY LIBRARY		TITLE: DIRECTOR	
ADDRESS: 1690 W BROADWAY ST			
CITY: BOLIVAR		STATE: MO	ZIP: 65613
EMAIL: cknight@polkcolibrary.org	ATTENDANCE: Written		SUBMIT DATE: 1/14/2022 9:48 AM
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The pricing and restrictions for downloadable content is making it very hard for my library to continue supplying the content that our patrons want and need. Our demand for ebooks and eaudiobooks has skyrocketed over 62% in the last 2 years with the pandemic. However my materials budget has remained fairly stagnant over the same time period. We are having to make the hard choice of reallocating some print material and database budgets to purchase econtent. However the pricing structure has made that very difficult. For example look at the NYT Bestsellers list. To purchase just the 15 Fiction Bestsellers in ebook would take \$811.56, and the library would be restricted to just having them for just 2 years. An individual could purchase the same 15 ebooks from Amazon for \$215.85 and have them forever. That is almost 4 times the cost for less content. The same price differential is true for eaudiobooks. This has resulted in long waiting lists for our patrons for the few titles we can afford to purchase, sometimes over 1 year. The trend toward metered content is very disturbing. When the first publisher started offering metered content to libraries, they assured libraries the price for content would drop making it equitable to consumer price. But it did not and indeed has risen. Metered content is becoming the norm for publishers to offer their content to libraries as more and more publishers go that route. Even audiobooks are trending that direction now.



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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: JIM STALEY		PHONE NUMBER: 816-503-4177	
BUSINESS/ORGANIZATION NAME: MID-CONTINENT PUBLIC LIBRARY		TITLE: COMMUNITY RELATIONS DIRECTOR	
ADDRESS: 15616 EAST US HIGHWAY 24			
CITY: INDEPENDENCE		STATE: MO	ZIP: 64050
EMAIL:	ATTENDANCE:	SUBMIT DATE: 1/25/2022 12:00 AM	
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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: MICHELLE MEARS		PHONE NUMBER: 816-205-7000	
BUSINESS/ORGANIZATION NAME: ROLLING HILLS CONSOLIDATED LIBRARY		TITLE: LIBRARY DIRECTOR	
ADDRESS: 1912 N. BELT HWY			
CITY: SAINT JOSEPH		STATE: MO	ZIP: 64506
EMAIL: mmears@rhcl.org	ATTENDANCE: Written		SUBMIT DATE: 1/25/2022 5:21 PM

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I want to thank the committee for the ability to watch the hearing remotely. I already submitted testimony but I am compelled to reiterate that this is basically an issue of copyright vs. licensing. If publishers insist on licensing instead of ownership, then we ask for a level playing field and to not be forced to pay four or five times the retail price. If publishers want to claim copyright on behalf of authors and creators, then we invoke the first sale doctrine clause which states that once a creator is fairly compensated for their work (a "sale") then the owner of that iteration has the right to lend it, resell it, share it, or dispose of it. Publishers cannot claim protections from both software licensing law and copyright law, they are significantly different in scope and application. Just because an e-book is a digital file does not make it software. Books are books, and libraries want to deliver books to users in the format they prefer and find easiest to use. Digital books are very versatile, and can adapt to users who have vision difficulties or other challenges. There are even fonts that can be used to help those with dyslexia. But we can't keep paying these outrageous prices and have our collections disappear after the time or checkout limits are applied. The system is inherently unfair and we ask for relief in the form of this bill to create the conditions where we can once again offer a wide variety of materials to our users that they very much need.



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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: MICHELLE MEARS		PHONE NUMBER: 816-205-7000	
BUSINESS/ORGANIZATION NAME: ROLLING HILLS CONSOLIDATED LIBRARY		TITLE: LIBRARY DIRECTOR	
ADDRESS: 1912 N. BELT HWY			
CITY: SAINT JOSEPH		STATE: MO	ZIP: 64506
EMAIL: mmears@rhcl.org	ATTENDANCE: Written		SUBMIT DATE: 1/14/2022 1:27 PM

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Rolling Hills Consolidated Library Serving 42,000 residents in Andrew and Buchanan Counties in northwest Missouri To: Missouri House of Representatives Committee on Emerging Issues

My greatest concern about unfair e-book practices is a combination of price and licensing terms. Most terms are only 1 or 2 years AND we are paying 5 or 6 times the retail price for bestselling titles. It is a double hit when we have to pay so much up front and then two years later pay it again to continue access to the same titles. Some publishers also have tried to institute an embargo on titles, and not allow purchase of an e-book for a set number of months past its print release date., while individuals can buy the e-book version on day one. Many authors write series or are discovered only after they write 2 or 3 books, so then people want to go back and read the other titles. Libraries don't just buy books, digital or print, we curate collections. A Stephen King fan wants to read all of his works, not just the ones that a library has temporary access to. Years ago, the publishing industry promised libraries that if they were going to rely on a licensing model for e-book sales that there would be a higher initial cost and then a lower "renewal" cost for ongoing access (sort of like hardcover prices versus paperback prices) but we have never seen this materialize. Without the costs of printing, warehousing, and transporting physical books, it has been a mystery as to why e-book prices have been set so much higher for libraries than for the public. In reality, the cost of physical print materials has traditionally been lower than retail for libraries when we purchase through book distributors who get bulk discounts from publishers and pass those savings on to us. E-book distributors also provide the "platform" for accessing the files, so we understand the need for a reasonable mark-up in price to maintain that platform, but we have no idea how much the distributors are paying publishers for the digital files. Publishers say they think libraries would buy just one e-book copy and share it with millions of people. That is a terrible falsehood, all of us believe that authors and publishers need to be paid for their work. But it is tied to the historical foundation of public libraries and how we operate. The tiny provision in copyright law that allows libraries to exist is called First Sale Doctrine. It says that once a creator is initially compensated for their work, we have the right to LEND, resell, or discard the item as we please. This is also what allows for garage sales and used bookstores to legally sell books. But libraries purchase works to share among their own district residents with the taxes paid for by those residents. Even if we might want to share e-books with other libraries, it is not our primary aim or purpose and the technology has not yet been developed for us to allow an e-book on a proprietary platform to be "shared" with another library that does not have access to that same platform. In addition, once publishers choose the licensing model they cannot ethically go back and complain about copyright violations. These are two different animals, and publishers should not be allowed to claim protections from both. Under the current terms that publishers allow libraries to purchase e-books, they are demanding that we spend more tax dollars on an item than what they

would charge an individual. This would not be tolerated if it was food or furniture or hardware. In fact, government agencies often negotiate lower pricing for tax supported institutions to allow tax dollars to realize greater value than in the private sector. Book publishers have been unyielding in their licensing terms, and libraries have been trying to negotiate for over a decade to no avail. Prices have risen exponentially and access has been reduced with shorter license periods and fewer allowed checkouts. And with the pandemic, the demand for “contactless” service that e-books allow has also risen sharply. Our only recourse has been to bring the issue before our legislators for relief. I think many of us would be happy with a copyright model that allows us to “own” the e-book in perpetuity even if we must pay a somewhat higher price to support the platform OR a licensing model that gives limited access for a significantly lower price that we have to renew periodically, preferably longer than two years. This is an important piece of legislation to open the door to reasonable terms for e-books and still leaves room for libraries and publishers to negotiate those terms. It does not demand that publishers sell e-books to libraries for the exact same price as private individuals, just that in order to do business in a state then publishers cannot dictate terms that unfairly make tax supported institutions pay exponentially more. There is some indication that if terms and prices were more reasonable that libraries would buy more copies to fill the high demand for e-books, essentially spending close to the amounts currently expended and not significantly changing the profit income publishers are realizing. I thank you for this opportunity to share my views on this very important legislation for public libraries.

Michelle Mears
Michelle R. Mears, MSLIS, PhD
Library Director
Rolling Hills Consolidated Library
1912 N. Belt Hwy.
St. Joseph, MO 64506
816.205.7000 office
816.646.8621 mobile
mmears@rhcl.org
<https://rhcl.org>



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WITNESS NAME			
INDIVIDUAL:			
WITNESS NAME: RACHAEL M GRIME		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL: director@little-dixie.lib.mo.us	ATTENDANCE: Written		SUBMIT DATE: 1/21/2022 11:35 AM
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Dear Committee,I wanted to take a moment to thank you for considering legislation to right the wrong that Missouri Libraries have had to endure these past few years.I first became familiar with the imbalance on ebook pricing when I began working with the largest ebook consortium in the State (Missouri Libraries 2 Go) as a buyer of adult fiction. The cost comparisons between ebooks allowed to libraries and physical books (or ebooks for that matter) allowed to the general public are staggering. On average, an ebook is four to five times what a normal person would pay. I understand some price difference, but the huge cost differential is a waste of taxpayer money. These publishers are limiting access to library patrons. They limit the number of times the book can be checked out...and once that magical number is reached, the library must then pay that exorbitant amount AGAIN to begin the cycle, AGAIN. These policies are unfair to libraries who use public money to help the general public. Patrons are not being treated fairly. Libraries are spending more money on these few items than going toward paying their libraries better wages, providing better literacy programs, and honestly, some libraries have had to choose between purchasing e-materials and working on their roofs. This law will help stop the gross overreach of the publishers and allow libraries to purchase ebooks at a fair price for their patrons while maintaining a fair level of service.Please do not hesitate to reach out to me if you ever have any questions. I truly appreciate you hearing this issue and I know many other libraries are thrilled as well.



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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: ROBIN WESTPHAL		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME: OFFICE OF THE MISSOURI SECRETARY OF STATE		TITLE: STATE LIBRARIAN	
ADDRESS: 600 WEST MAIN STREET			
CITY: JEFFERSON CITY		STATE: MO	ZIP: 65101
EMAIL:	ATTENDANCE:	SUBMIT DATE: 1/25/2022 12:00 AM	
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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: STEVEN CAMPBELL		PHONE NUMBER: 636-266-1621	
BUSINESS/ORGANIZATION NAME: SCENIC REGIONAL LIBRARY		TITLE: DIRECTOR	
ADDRESS: 251 UNION PLAZA DRIVE			
CITY: UNION		STATE: MO	ZIP: 63084
EMAIL: swcampbell@scenicregional.org	ATTENDANCE: Written		SUBMIT DATE: 1/14/2022 1:46 PM
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Digital formats, like e-books, e-audiobooks, online databases, and streaming platforms, have revolutionized the way library users access the resources they need. Patrons have come to depend on these electronic materials. In fact, twenty to twenty-five percent of my library's usage is now digital content. However, big publishers' unfair trade practices threaten to make these valuable resources harder, sometimes even impossible, for public libraries to obtain. These publishers charge libraries as much as five times more for a book in digital format (e-book or e-audiobook) than the cost of the same book in print. They also charge libraries as much as five times more for an e-book or e-audiobook than they charge an individual for the exact same item.

These upcharges are inexplicable. There are no printing costs for these publishers. There are no shipping costs. It does not cost them anything to allow multiple people to access the same digital file. It doesn't cost them any more to check an e-book out two times or two hundred times. The large publishing houses are price-gouging libraries across Missouri and forcing public libraries to waste taxpayer funds to provide resources for library patrons simply because they have the power to do so. For example, *Escape*, a popular fiction title by James Patterson, can be purchased in print by a public library for \$15.83. However, the same book in e-book format costs the library \$65.00. An individual can purchase *Escape* in e-book format for \$14.99. *Red on the River* by Christine Feehan can be purchased by a library for \$15.29 in print, but the e-book costs \$55.00. An individual can purchase the Feehan book for only \$14.99. These incomprehensible upcharges are at the expense of Missouri taxpayers.

Price gouging and limiting access are not the only issues with the big publishers. In many cases, publishers won't sell titles to libraries at all. For example, Dean Kootz's popular novel *Quicksilver* is simply not sold to public libraries as an e-book. The same is true for another bestseller, *Thief River Falls*, by Brian Freeman. The hundreds of thousands of Missourians who exclusively use libraries to obtain their reading materials cannot access many popular titles in the format which best suits their needs or preferences. Each book is owned exclusively by a single publisher. If they refuse to sell the book to libraries, all libraries and their patrons completely lose access.

The issue with these publishers is not only cost or availability. They also place restrictions on how long a library may own an item or the number of times an e-book or e-audiobook can be checked out. With bestsellers like *Escape*, by James Patterson, or *Lincoln Highway*, by Amor Towels, libraries can only own the e-book for two years. After two years, the library has to repurchase the same e-book for another \$55.00 or \$65.00! The bestseller, *Portrait of an Unknown Woman*, by Daniel Silva, can be purchased by libraries for \$34.99, but after only 26 checkouts, the library has to spend another \$34.99 to purchase the exact same e-book, again! It's important to note that all these examples aren't the exception; they're the rule. The big publishers do this with thousands of e-book titles, and have done so for many years. The future of public libraries is at stake. If libraries can't access popular and bestselling titles due to these ongoing restrictions, we won't be able to serve

our patron's needs. In addition, these big publishers will continue to price gouge libraries, causing taxpayer funds to be stretched thinner and thinner. The goal of technological progress should always be to expand access, not restrict it. With e-books and e-audiobooks, we have the potential to get library materials into patrons' hands quicker, cheaper, and easier. But the biggest publishers have instead chosen to make this technology more difficult and more expensive for libraries. It is Missourians who end up shortchanged. I strongly encourage the Assembly to pass HB 2210.



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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: TONY A. BENNINGFIELD		PHONE NUMBER: 636-677-8689	
BUSINESS/ORGANIZATION NAME: JEFFERSON COUNTY LIBRARY DISTRICT		TITLE: EXECUTIVE DIRECTOR	
ADDRESS: 5678 HIGHWAY PP			
CITY: HIGH RIDGE		STATE: MO	ZIP: 63049
EMAIL: tbenningfield@jeffcolib.org	ATTENDANCE: Written		SUBMIT DATE: 1/18/2022 10:10 AM
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Libraries are placed in a difficult position when it comes to e-book / e-audiobook pricing. As good stewards of our tax dollars we prefer to have a model where we actually own the content in the end but currently the pricing for that type of material is getting cost prohibitive for many authors. The one book / one user e-content for popular authors like John Grisham can cost up to three times that of the physical material which drastically impacts the number of users that get access during the times of high demand since we can't purchase enough to meet demand without blowing the entire budget. Grant funding for e-content also often comes with the requirement that the library will own the materials so purchases are restricted to this higher priced content. Metered access is a generally cheaper alternative but that comes with the caveat that the library does not end up owning any content in the end, we just purchase rights to it for a certain amount of time / number of checkouts. Metered access creates challenges for library staff because we then have to stay on top of when that content expires and then repurchase it when needed if demand remains which creates additional costs. If we discontinue the relationship with the e-content vendor we lose access to these metered access titles. All of the Harry Potter titles are metered access and require constant vigilance to make sure that content remains available to our users. The pay per download model of e-content creates a Hunger Games type scenario for the patrons as they fight to get in the budget window for the day to get their checkouts to go through. Users also face caps on the amount of items that can be checked out per month. Libraries can't afford to not put a cap on the daily budget spent in this model because just a few users could run up a huge bill with a large number of checkouts. This pricing model also leaves the library not owning any of the e-content and losing it if / when the relationship with the vendor ends. E-content seems to be going the way of print publishing where vendors are buying up other companies and leaving libraries with just a few companies in the marketplace who don't face any meaningful competition to keep their pricing in check. Overdrive recently purchased Recorded Books which took another player from the field.



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WITNESS NAME			
REGISTERED LOBBYIST:			
WITNESS NAME: SHANNON COOPER		PHONE NUMBER: 660-890-1423	
REPRESENTING: ASSOCIATION OF AMERICAN PUBLISHERS		TITLE:	
ADDRESS: 208 MADISON STREET			
CITY: JEFFERSON CITY		STATE: MO	ZIP: 65101
EMAIL:	ATTENDANCE:	SUBMIT DATE: 1/25/2022 12:00 AM	
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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: TERRENCE HART		PHONE NUMBER: 202-322-3858	
BUSINESS/ORGANIZATION NAME: ASSOCIATION OF AMERICAN PUBLISHERS		TITLE: GENERAL COUNSEL	
ADDRESS: 455 MASSACHUSETTS AVENUE NW, SUITE 700			
CITY: WASHINGTON		STATE: DC	ZIP: 20001
EMAIL: thart@publishers.org	ATTENDANCE: Written	SUBMIT DATE: 1/18/2022 11:41 AM	
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BILL: H.B. 2210, amendments related to electronic literary products
COMMITTEE: Emerging Issues
HEARING DATE: January 18, 2022
CONTACT: Terrence Hart, thart@publishers.org
POSITION: Oppose

The Association of American Publishers (AAP) respectfully submits the following testimony in opposition to House Bill 2210 (H.B. 2210), which violates and is preempted by federal copyright law and, in any event, is unconstitutional. AAP is the national trade association for book, journal, and education publishers in the United States. AAP's members include major commercial book publishers of fiction and nonfiction; education publishers; small, specialized, and independent publishers; and nonprofit publishers such as university presses and scholarly research societies. Among AAP's most critical priorities is ensuring the viability of our nearly 230-year-old legal framework that encourages publishers to invest in and distribute a great variety of books to the public. Federal copyright law forms the cornerstone of the United States' vital publishing industry. A healthy and independent publishing industry, in turn, supports the nation's political, intellectual, and cultural systems. H.B. 2210 would undermine the long-established and uniform federal legal framework enacted by Congress to govern the distribution of copyrighted works by compelling publishers, independently published authors, and others to grant licenses to eBooks, audiobooks, and other digital text documents to Missouri libraries immediately after granting commercial licenses and regulating the terms and prices of all library e-book licenses. Federal copyright law unequivocally prohibits this type of regulation of copyrights by state governments. Moreover, H.B. 2210 raises significant Commerce Clause concerns and would likely be found to violate the U.S. Constitution. These concerns have compelled AAP to challenge in federal court a virtually identical bill enacted by Maryland. And a version of this bill passed by the New York state legislature was recently vetoed by NY Governor Hochul, who said, "Because the provisions of this bill are preempted by federal copyright law, I cannot support this bill." Among the primary legal and constitutional concerns with the legislation are the following: First, federal copyright law preempts it. The power of Congress to incentivize authors is one of the few enumerated powers it derives directly from the U.S. Constitution through the "Copyright Clause." It is through this authority that Congress has established a carefully balanced, uniform federal system of copyright law, expressly and completely preempting states from expanding or inhibiting the exclusive rights of copyright owners. The Copyright Act's language makes this intent crystal clear: "all legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright . . . are governed exclusively by this title." Courts have consistently invalidated previous efforts by states to constrain the exclusive rights of copyright owners to determine how, when, to whom, and under what circumstances to distribute their works. H.B. 2210 conflicts with this exclusive right to distribute by mandating the sale or licensing of copyrighted works—eBooks and audiobooks—to specific customers under specific terms. Second, the bill would impermissibly regulate both interstate and out-of-state

commerce by specifying conditions on which out-of-state publishers do business. It would unreasonably and unduly burden interstate and foreign commerce by seeking to compel publishers outside of Missouri to enter into commercial transactions in Missouri, and also would carry the risk of subjecting publishers' interstate licensing transactions to inconsistent regulations, including if other states were to adopt similar or conflicting legislation. This violates the Commerce Clause and impedes free private trade in the national (and global) marketplace. But even if Missouri were not federally preempted from enacting legislation of this nature, AAP is unaware of any demonstrated harm or unfair and abusive trade practices involving the hundreds of publishers we represent that would justify the systemic market regulation of copyrights that H.B. 2210 would establish. To the contrary, leading library eBook aggregator Overdrive recently reported that in 2021, "libraries achieved all-time records for circulation while lowering the average cost-per-title borrowed." It is copyright law that operates as the legal foundation that brings about the creation of such a wide variety of published works that libraries' customers value so highly: it supplies the economic incentive for authors and publishers to invest creatively, intellectually, and financially in the dissemination of literary works, and it does so by securing marketable rights for the term of protection established by Congress. The Missouri law would interfere with business decisions that are the responsibility and prerogative of publishers and their authors to determine pursuant to this legal framework. AAP appreciates that H.B. 2210 recognizes the importance of public libraries as a marketplace for eBooks and audiobooks. We wholeheartedly agree, as AAP's member companies vigorously compete with one another to market and license their immeasurably important novels, biographies, poetry, children's books, and scholarly works to their library customers through a wide variety of constantly evolving formats and innovative and dynamic business models. Libraries have become and are expected to remain an important market for AAP's members' eBooks, with millions of digital titles currently available to libraries. Publishers at the same time take equal care to support local bookstores and other business models that are popular with consumers and essential for business. The income generated from these markets is not only integral to publishers' ability to remain in business, it sustains the authors who write these books. For the reasons noted above, AAP respectfully but strongly opposes H.B. 2210 and urges the Committee to reconsider its intended objective with the benefit of broader stakeholder input as to the intended and unintended impacts of the bill. We appreciate the opportunity to present these views to the Committee. Respectfully submitted,

Terrence Hart
General Counsel