

STOP TIP-OVERS OF UNSTABLE, RISKY DRESSERS ON
YOUTH ACT

SEPTEMBER 16, 2019.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2211]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 2211) to require the Consumer Product Safety Commission to promulgate a consumer product safety rule for free-standing clothing storage units to protect children from tip-over related death or injury, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Stop Tip-overs of Unstable, Risky Dressers on Youth Act” or the “STURDY Act”.

SEC. 2. CONSUMER PRODUCT SAFETY STANDARD TO PROTECT AGAINST TIP-OVER OF CLOTHING STORAGE UNITS.

(a) **CLOTHING STORAGE UNIT DEFINED.**—In this section, the term “clothing storage unit” means any free-standing furniture item manufactured in the United States or imported for use in the United States that is intended for the storage of clothing, typical of bedroom furniture.

(b) **CONSUMER PRODUCT SAFETY STANDARD REQUIRED.**—

(1) **IN GENERAL.**—Except as provided in subsection (c)(1), not later than 1 year after the date of the enactment of this Act, the Consumer Product Safety Commission shall—

(A) in consultation with representatives of consumer groups, clothing storage unit manufacturers, craft or handmade furniture manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for clothing storage units; and

(B) in accordance with section 553 of title 5, United States Code, promulgate a final consumer product safety standard for clothing storage units to protect children from tip-over-related death or injury that includes—

(i) tests that simulate the weight of children up to 60 pounds;

(ii) objective, repeatable, and measurable tests that simulate real world use and account for any impact on clothing storage unit stability that may result from placement on carpeted surfaces, drawers with items in them, multiple open drawers, or dynamic force;

(iii) testing of all clothing storage units, including those under 30 inches in height; and

(iv) warning requirements based on ASTM F2057-17, or its successor at the time of enactment, provided that the Consumer Product Safety Commission shall strengthen the requirements of ASTM F2057-17, or its successor, if reasonably necessary to protect children from tip-over-related death or injury.

(2) **TREATMENT OF STANDARD.**—A consumer product safety standard promulgated under paragraph (1) shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

(c) **SUBSEQUENT RULEMAKING.**—

(1) **IN GENERAL.**—At any time subsequent to the publication of a consumer product safety standard under subsection (b)(1), the Commission may initiate a rulemaking, in accordance with section 553 of title 5, United States Code to modify the requirements of the consumer product safety standard described in subsection (b)(1) if reasonably necessary to protect children from tip-over-related death or injury.

(2) **REVISION OF RULE.**—If, after the date of the enactment of this Act, the Centers for Disease Control and Prevention revises its Clinical Growth Charts, the consumer product safety standard described in subsection (b)(1) shall, on the date that is 180 days after such revision, be revised to include tests that simulate the weight of children up to the 95th percentile weight of children 72 months in age, as depicted in the revised Centers for Disease Control and Prevention Clinical Growth Charts, unless the Commission determines the modification is not reasonably necessary to protect children from tip-over-related death or injury.

(3) **TREATMENT OF RULES.**—Any rule promulgated under paragraph (1) or revision made pursuant to paragraph (2) shall be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

I. PURPOSE AND SUMMARY

H.R. 2211, the “Stop Tip-overs of Unstable, Risky Dressers on Youth Act” or the “STURDY Act”, was introduced on April 10, 2019, by Reps. Schakowsky (D-IL), McNerney (D-CA), Soto (D-FL), and Rush (D-IL) and referred to the Committee on Energy

and Commerce. H.R. 2211 would protect children from tip-over-related death or injury by requiring the Consumer Product Safety Commission (CPSC) to promulgate a mandatory consumer product safety standard for clothing storage units.

II. BACKGROUND AND NEED FOR LEGISLATION

According to the CPSC, tip-overs are one of the top five hidden hazards in the home.¹ One child dies every two weeks as a result of falling furniture, televisions, or appliances.² In the most recent CPSC staff report on furniture tip-overs, the agency reported a total of 206 tip-over-related fatalities involving clothing storage units from 2000 to 2017, making tip-overs of clothing storage units, such as dressers, a particularly dangerous risk.³ Most of the victims were children under 6 years of age.

Children are particularly vulnerable to the risk of injury and death associated with furniture tip-overs because they lack the cognitive awareness of the hazard, the ability to react quickly enough to avoid falling furniture, and the strength to move heavy furniture if trapped underneath.⁴ Notably, analysis by the CPSC has also shown that it is expected for children under 6 years of age to interact with furniture, such as clothing storage units, by climbing, sitting, hiding, or standing in a lower drawer to reach for items on the top of the unit.⁵ Accordingly, a strong furniture stability standard is necessary to keep children safe.

In early 2015, the CPSC launched the “Anchor It!” Campaign—a national public education campaign to prevent furniture and television tip-overs from killing and seriously injuring children by encouraging caregivers to anchor furniture.⁶ Despite the CPSC’s efforts, Commissioner Kaye suggests there is “zero way of knowing” whether such efforts have led to a reduction in risks associated with tip-overs.⁷ Furthermore, a nationally representative survey of U.S. adults conducted by Consumer Reports in 2018 revealed that only about a quarter of Americans have anchored furniture in their homes.⁸ The survey found there are many reasons why Americans do not anchor furniture: 54 percent without children under 6 in the home did not think it was necessary; 47 percent with children under 6 in the home said the children were not left alone; 41 percent thought the furniture was stable enough; 25 percent did not want to put holes in their walls; 16 percent did not want to put

¹ Consumer Product Safety Commission, *Top 5 Hidden Hazards in the Home* (Apr. 25, 2014) (www.cpsc.gov/safety-education/safety-guides/toys-home-furniture-furnishings-and-decorations/top-5-hidden-home).

² Consumer Product Safety Commission, *A Game Plan to Prevent TV/Furniture Tip-Over Deaths and Injuries* (Jan. 28, 2015) (onsafety.cpsc.gov/blog/2015/01/28/a-game-plan-to-prevent-tvfurniture-tip-over-deaths-and-injuries/).

³ Consumer Product Safety Commission, *Product Instability or Tip-Over Injuries and Fatalities Associated with Televisions, Furniture, and Appliances: 2018 Report* (Oct. 2018) (www.cpsc.gov/s3fs-public/Product%20Instability%20or%20Tip%20Over%20Report%20Oct%202018_STAMPED.pdf).

⁴ Consumer Product Safety Commission, *Clothing Storage Unit Tip Overs; Request for Comments and Information*, 82 Fed. Reg. 56752 (Nov. 30, 2017) (Advance notice of proposed rule-making).

⁵ *Id.*

⁶ Consumer Reports, *Furniture Anchors Not an Easy Fix, as Child Tip-Over Deaths Persist* (Nov. 5, 2018) (www.consumerreports.org/furniture/furniture-anchors-not-an-easy-fix-as-child-tip-over-deaths-persist/).

⁷ *Id.*

⁸ *Id.*

holes in their furniture; 7 percent are not sure what hardware to buy; and 7 percent have never heard of anchoring furniture.⁹

CPSC staff has determined that the current ASTM standard that applies to clothing storage units does not adequately reduce the risk of furniture tip-overs.¹⁰ In February 2019, CPSC Acting Chairman Ann Marie Buerkle sent a letter to the relevant ASTM Subcommittee requesting two actions to improve the current standard.¹¹ Acting Chairman Buerkle requested an increase in test weights from 50 to 60 pounds and an expansion of the scope of the standard to include clothing storage units that are between 27 and 30 inches in height.¹² H.R. 2211 reflects both requests made by Acting Chairman Buerkle.

H.R. 2211 is needed to protect children from the unreasonable risk of death or injury from furniture tip-over incidents. This legislation would require the CPSC to promulgate a consumer product safety rule for clothing storage units that protects children from tip-over-related death or injury.

III. COMMITTEE HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearings were used to develop or consider H.R. 2211:

The Subcommittee on Consumer Protection and Commerce held an oversight hearing on June 9, 2019. The hearing was entitled, “Protecting Americans from Dangerous Products: Is the Consumer Product Safety Commission Fulfilling Its Mission?”. The Subcommittee received testimony from members of the CPSC and others from consumer organizations:

- The Honorable Ann Marie Buerkle, Acting Chairman, Consumer Product Safety Commission;
- The Honorable Elliot F. Kaye, Commissioner, Consumer Product Safety Commission;
- The Honorable Robert S. Adler, Commissioner, Consumer Product Safety Commission;
- The Honorable Dana Baiocco, Commissioner, Consumer Product Safety Commission;
- The Honorable Peter A. Feldman, Commissioner, Consumer Product Safety Commission;
- Rachel Weintraub, Legislative Director and General Counsel, Consumer Federation of America;
- Nancy Cowles, Executive Director, Kids in Danger; and
- Remington A. Gregg, Counsel for Civil Justice and Consumer Rights, Public Citizen.

The Subcommittee on Consumer Protection and Commerce held a legislative hearing on June 13, 2019, on H.R. 2211, the “STURDY Act” and six other bills. The hearing was entitled, “Keeping Kids and Consumers Safe from Dangerous Products.” The Subcommittee received testimony from:

⁹ *Id.*

¹⁰ *See* note 4.

¹¹ Letter from Ann Marie Buerkle, Acting Chairman, U.S. Consumer Product Safety Commission, to Richard Rosati, ASTM Subcommittee Chair for F15.42, Furniture Safety, ASTM International (Feb. 27, 2019).

¹² *Id.*

- Will Wallace, Manager, Home & Products Policy, Consumer Reports;
- Crystal Ellis, Founding Member, Parents Against Tip-Overs;
- Chris Parsons, President, Minnesota Professional Fire Fighters; and
- Charles A. Samuels, Member, Mintz.

IV. COMMITTEE CONSIDERATION

H.R. 2211, the “Stop Tip-overs of Unstable, Risky Dressers on Youth Act” or the “STURDY Act”, was introduced in the House on April 10, 2019, by Reps. Schakowsky (D–IL), McNerney (D–CA), Soto (D–FL), and Rush (D–IL), and referred to the Committee on Energy and Commerce. Subsequently, the bill was referred to the Subcommittee on Consumer Protection and Commerce on April 11, 2019. Following hearings, the Subcommittee met in open markup session, pursuant to notice, on July 10, 2019, for consideration of H.R. 2211. An amendment in the nature of a substitute offered by Ms. Schakowsky was agreed to by a voice vote. Subsequently, the Subcommittee on Consumer Protection and Commerce agreed to a motion by Ms. Schakowsky, Chairwoman of the Subcommittee, to forward favorably H.R. 2211, amended, to the full Committee on Energy and Commerce by a voice vote.

On July 17, 2019, the full Committee met in open markup session, pursuant to notice, to consider H.R. 2211, as amended by the subcommittee. During markup of the bill, an amendment offered by Mrs. Rodgers (R–WA) was agreed to by a voice vote. At the conclusion of consideration of the bill, the full Committee on Energy and Commerce agreed to a motion by Mr. Pallone, Chairman of the Committee, to order the bill H.R. 2211 reported favorably to the House, amended, by a voice vote, a quorum being present.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with consideration of H.R. 2211 or reporting the bill thereto.

VI. OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portion of the report.

VII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this

bill contains any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures.

VIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

IX. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to require CPSC to promulgate a mandatory consumer product safety standard for clothing storage units that protects children from tip-over-related death or injury.

X. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 2211 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

XI. COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

XII. EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 2211 contains no earmarks, limited tax benefits, or limited tariff benefits.

XIII. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

XIV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XV. SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 designates that the short title may be cited as the “Stop Tip-overs of Unstable, Risky Dressers on Youth Act” or the “STURDY Act”.

Sec. 2. Consumer product safety standard to protect against tip-over of clothing storage units

Subsection (a) of this section defines the term “clothing storage unit” as any free-standing furniture item manufactured in the United States or imported for use in the United States that is intended for the storage of clothing, typical of bedroom furniture. This term is intended to include products that may be anchored to the wall using a tip-over restraint device, such as an anchoring kit. It is not intended to include products that are permanently attached or built into a structure and that would be destroyed and rendered unusable if they were detached or separated from the structure.

Subsection (b) of this section specifies that not later than one year after the date of enactment of this Act, the CPSC shall examine and assess the effectiveness of any voluntary consumer product safety standards for clothing storage units—in consultation with representatives of consumer groups, clothing storage unit manufacturers, craft or handmade furniture manufacturers, and independent child product engineers and experts. Not later than one year after the date of enactment of this Act, the CPSC shall also promulgate, in accordance with the Administrative Procedure Act, a final consumer product safety standard for clothing storage units to protect children from tip-over-related death or injury. The rulemaking procedures required in Sections 7 and 9 of the Consumer Product Safety Act would not apply. This subsection specifies that the safety standard must include tests that simulate the weight of children up to 60 pounds, which is the current 95th percentile weight of children just under six years old according to the Centers for Disease Control and Prevention (CDC) Clinical Growth Chart.¹³ This subsection further specifies that the standard must include: objective, repeatable, and measurable tests that simulate real world use and account for any impact on clothing storage unit stability that may result from placement on carpeted surfaces, drawers with items in them, multiple open drawers, or dynamic force; testing of all clothing storage units, including those under 30 inches in height; and warning requirements based on ASTM F2057–17, or its successor at the time of enactment, provided that the CPSC shall strengthen the requirements of ASTM F2057–17, or its successor, if necessary to protect children from tip-over-related death or injury. The tests required to meet the safety standard should be conducted without the use of tip-over restraint devices, such as anchoring kits. Finally, this subsection specifies that the consumer product safety standard promulgated should be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act. Accordingly, it shall be unlawful for any person to sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States clothing storage units that are not in conformity with the promulgated standard. Any violations shall be subject to civil or criminal penalties.

Subsection (c) of this section specifies that the CPSC may initiate a rulemaking, in accordance with the Administrative Procedure Act, to modify the requirements of the promulgated consumer product safety standard if reasonably necessary to protect children from

¹³ See note 4.

tip-over-related death or injury. The Committee does not intend any rulemaking procedures required in Sections 7 and 9 of the Consumer Product Safety Act to apply. If, after the date of the enactment of this Act, CDC revises its Clinical Growth Charts, the consumer product safety standard shall, 180 days after the revision of Clinical Growth Charts, be revised to include tests that simulate the weight of children up to the new 95th percentile weight of children 72 months in age, unless the CPSC determines the modification is not reasonably necessary to protect children from tip-over-related death or injury. This subsection further specifies that any revision to the clothing storage unit standard will be treated as a consumer product safety rule promulgated under section 9 of the Consumer Product Safety Act. Accordingly, it shall be unlawful for any person to sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States clothing storage units that are not in conformity with the promulgated standard. Any violations shall be subject to civil or criminal penalties.

XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

There are no changes to existing law made by the bill H.R. 2211.

ADDITIONAL VIEWS

There are concerns that H.R. 2211 is still in need of further clarification regarding the technical provisions needed to create a robust and feasible solution that will allow industry to manufacture products with certainty. Ambiguities remain in H.R. 2211 given the proposed requirements that may result in greatly extending the timeline of implementing an enforceable standard. Further, H.R. 2211 does not require a cost benefit analysis, which is critical in evaluating the procedures, as well as ensuring consistency and accuracy and is otherwise required by Section 9 of the Consumer Product Safety Act. Testing procedures should be designed to be replicated in different locations and environments to ensure industry can manufacture their products with certainty. Concerned parties believe that mandatory compliance with the existing voluntary standard, ASTM F2057-17, is the quickest and most sensible solution to address tip-over related deaths or injuries. The CPSC should adopt the voluntary standard, first and foremost.

ROBERT E. LATTA.

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