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(Original Signature of Member)

114TH CONGRESS
2D SESSION

H. R. _____

To preempt State data security vulnerability mandates and decryption requirements.

IN THE HOUSE OF REPRESENTATIVES

Mr. LIEU of California introduced the following bill; which was referred to the Committee on _____

A BILL

To preempt State data security vulnerability mandates and decryption requirements.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ensuring National
5 Constitutional Rights for Your Private Telecommuni-
6 cations Act of 2016” or the “ENCRYPT Act of 2016”.

1 **SEC. 2. PREEMPTION OF STATE DATA SECURITY VULNER-**
2 **ABILITY MANDATES AND DECRYPTION RE-**
3 **QUIREMENTS.**

4 (a) IN GENERAL.—A State or political subdivision of
5 a State may not mandate or request that a manufacturer,
6 developer, seller, or provider of covered products or serv-
7 ices—

8 (1) design or alter the security functions in its
9 product or service to allow the surveillance of any
10 user of such product or service, or to allow the phys-
11 ical search of such product, by any agency or instru-
12 mentality of a State, a political subdivision of a
13 State, or the United States; or

14 (2) have the ability to decrypt or otherwise
15 render intelligible information that is encrypted or
16 otherwise rendered unintelligible using its product or
17 service.

18 (b) DEFINITIONS.—In this section:

19 (1) COVERED PRODUCT OR SERVICE.—The
20 term “covered product or service” means any com-
21 puter hardware, computer software, electronic de-
22 vice, or online service that—

23 (A) has traveled in interstate or foreign
24 commerce or otherwise affects interstate or for-
25 eign commerce; and

26 (B) is made available to the general public.

1 (2) ONLINE SERVICE.—The term “online serv-
2 ice” means a service provided over the Internet that
3 makes available to users—

4 (A) the ability to send or receive commu-
5 nications, such as emails, text messages,
6 photos, and audio and video communications;

7 (B) the ability to share data files with
8 other users; or

9 (C) remote computer processing or storage.

10 (3) STATE.—The term “State” means each of
11 the several States, the District of Columbia, each
12 commonwealth, territory, or possession of the United
13 States, and each federally recognized Indian tribe.