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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 is made available to the
23 general public.

24 (2) ONLINE SERVICE.—The term “online serv-
25 ices” means a service provided over the Internet that
26 makes available to users—

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

4 (B) the ability to share data files with
5 other users; or

6 (C) remote computer processing or storage.

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