

AMENDMENT NO. _____ Calendar No. _____

Purpose: To exclude encryption from the increased liability for providers of interactive computer services.

IN THE SENATE OF THE UNITED STATES—116th Cong., 2d Sess.

S. 3398

To establish a National Commission on Online Child Sexual Exploitation Prevention, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 On page 16, line 3, strike the quotation marks and
2 the second period and insert the following:

3 “(7) CYBERSECURITY PROTECTIONS DO NOT
4 GIVE RISE TO LIABILITY.—Notwithstanding para-
5 graph (6), a provider of an interactive computer
6 service shall not be deemed to be in violation of sec-
7 tion 2252 or 2252A of title 18, United States Code,
8 for the purposes of subparagraph (A) of such para-
9 graph (6), and shall not otherwise be subject to any
10 charge in a criminal prosecution under State law
11 under subparagraph (B) of such paragraph (6), or
12 any claim in a civil action under State law under

1 subparagraph (C) of such paragraph (6), because
2 the provider—

3 “(A) utilizes full end-to-end encrypted mes-
4 saging services, device encryption, or other
5 encryption services;

6 “(B) does not possess the information nec-
7 essary to decrypt a communication; or

8 “(C) fails to take an action that would oth-
9 erwise undermine the ability of the provider to
10 offer full end-to-end encrypted messaging serv-
11 ices, device encryption, or other encryption serv-
12 ices.”.