AMENDMENT NO. ________  Calendar No. ________

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


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 the second period and insert the following:

   “(7) Cybersecurity protections do not give rise to liability.—Notwithstanding paragraph (6), a provider of an interactive computer service shall not be deemed to be in violation of section 2252 or 2252A of title 18, United States Code, for the purposes of subparagraph (A) of such paragraph (6), and shall not otherwise be subject to any charge in a criminal prosecution under State law under subparagraph (B) of such paragraph (6), or any claim in a civil action under State law under
subparagraph (C) of such paragraph (6), because
the provider—

“(A) utilizes full end-to-end encrypted messaging services, device encryption, or other encryption services;

“(B) does not possess the information necessary to decrypt a communication; or

“(C) fails to take an action that would otherwise undermine the ability of the provider to offer full end-to-end encrypted messaging services, device encryption, or other encryption services.”.