

AMENDED IN SENATE AUGUST 27, 1997

**Senate Joint Resolution**

**No. 29**

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**Introduced by ~~Senators Vasconcellos, Alpert, McPherson,  
O'Connell, Sher, Watson, and Wright~~ Senator Vasconcellos**

**(~~Coauthors: Assembly Members Alquist, Bowen, Cardenas,  
Cunneen, Figueroa, Lempert, and McClintock~~)**

**(~~Principal coauthor: Assembly Member Cunneen~~)**

**(~~Coauthors: Senators Alpert, Leslie, McPherson, O'Connell,  
Polanco, Sher, Solis, Watson, and Wright~~)**

**(~~Coauthors: Assembly Members Alquist, Bowen, Caldera,  
Campbell, Cardenas, Davis, Figueroa, Keeley, Knox,  
Lempert, and McClintock~~)**

July 11, 1997

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Senate Joint Resolution No. 29—Relative to repealing export restrictions on encryption software and hardware products.

LEGISLATIVE COUNSEL'S DIGEST

SJR 29, as amended, Vasconcellos. Cryptographic products: export controls.

This measure would memorialize the President and Congress of the United States to take immediate action to revise current federal export controls on American cryptographic products.

Fiscal committee: no.

1 WHEREAS, With the continuing prosperity of the  
2 California economy, hundreds of thousands of California  
3 jobs and many millions of dollars of state tax revenues are

1 dependent upon the success of California's computer  
2 software, hardware, and related industries; and

3 WHEREAS, Electronic commerce, especially over the  
4 Internet, has been forecast to amount to as much as two  
5 hundred billion dollars (\$200,000,000,000) per year by the  
6 year 2000; and

7 WHEREAS, California is in a better position to benefit  
8 more from the growth of electronic commerce than any  
9 other state because it has far more commercial Internet  
10 host computers, computer software- and  
11 hardware-producing employers and employees, and in  
12 general, more involvement with electronic commerce  
13 and the Internet than any other state; and

14 WHEREAS, There is a consensus in the software and  
15 hardware industries and among the corporations and  
16 individuals who use the Internet for commerce and  
17 communication that security of communications is best  
18 provided by encryption and decryption (for example,  
19 "scrambling and unscrambling") of communications at  
20 the points of origin and destination; and

21 *WHEREAS, There exists an enormous worldwide*  
22 *market for software and hardware products*  
23 *incorporating secure encryption features; and*

24 WHEREAS, Current provisions of federal law dating to  
25 World War II and the Cold War relating to the export of  
26 cryptographic systems are greatly injuring California and  
27 other American companies in the worldwide  
28 cryptography and computer security markets; and

29 WHEREAS, The Internet, as currently configured,  
30 does not by itself provide for maintaining the security of  
31 financial, corporate, or personal communications from  
32 interception, intrusion, or alteration; and

33 WHEREAS, It is legal, and has been for many years, for  
34 Americans and Canadians to own and use and even  
35 import into the United States and Canada encryption  
36 products of any strength; and

37 WHEREAS, California producers of cryptographic  
38 products are increasingly unable to compete and prosper  
39 in ~~that~~ *the* worldwide market due to export controls on  
40 encryption products imposed by the United States



1 government during World War II and maintained  
2 throughout the Cold War, which export controls are still  
3 in effect; and

4 WHEREAS, Foreign competitors of American  
5 software and hardware companies are successfully selling  
6 strong, sophisticated encryption systems throughout the  
7 world, all in a manner unimpeded by government, and  
8 are selling their advanced cryptographic products by  
9 means of advertising, informing potential customers that  
10 their 128-bit and longer cryptographic products are far  
11 superior to the cryptographic products of American  
12 manufacturers because the American companies are  
13 prevented by the Arms Export Control Act (22 U.S.C.  
14 Secs. 2751 and following) from exporting cryptographic  
15 products with key lengths of more than 40 bits; and

16 WHEREAS, Any advantage to American law  
17 enforcement or national security formerly obtained by  
18 American export controls on cryptography has been  
19 reduced by the ready worldwide availability of strong,  
20 robust cryptographic systems produced by  
21 non-American companies and even by the ability lawfully  
22 to import these foreign systems into the United States;  
23 and

24 WHEREAS, The Information Technology Association  
25 of America estimates that American companies could lose  
26 up to 65 billion dollars (\$65,000,000,000) in the export  
27 market for cryptography by the end of the decade and the  
28 National Research Council of the National Academy of  
29 Sciences has concluded after exhaustive study that  
30 United States export controls on cryptography may be  
31 causing American software and hardware companies to  
32 lose a significant share of a rapidly growing market, with  
33 losses of at least a few hundred million dollars per year, and  
34 may also damage United States leadership in information  
35 technology as well as its national security; and

36 WHEREAS, There are pending in the United States  
37 Congress Sen. No. 377 and H.R. 695, both of which  
38 substantially ease or eliminate current federal export  
39 controls on American cryptographic products, and other  
40 legislation related to cryptography and export controls is



1 being introduced and considered in the Congress; now,  
2 therefore, be it

3 *Resolved by the Senate and Assembly of the State of*  
4 *California, jointly,* That the Legislature of the State of  
5 California respectfully memorializes Congress and the  
6 President of the United States to take immediate action  
7 to revise the current federal export controls on the export  
8 by American companies of cryptographic products; and  
9 be it further

10 *Resolved,* That the Secretary of the Senate transmit  
11 copies of this resolution to the President and Vice  
12 President of the United States, to the Speaker of the  
13 United States House of Representatives, and to each  
14 Senator and Representative from California in the  
15 Congress of the United States.

