

## Senate Joint Resolution No. 29

### RESOLUTION CHAPTER 110

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

[Filed with Secretary of State September 12, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

SJR 29, 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.

WHEREAS, With the continuing prosperity of the California economy, hundreds of thousands of California jobs and many millions of dollars of state tax revenues are dependent upon the success of California's computer software, hardware, and related industries; and

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

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

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

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

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

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

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

WHEREAS, California producers of cryptographic products are increasingly unable to compete and prosper in the worldwide market due to export controls on encryption products imposed by the United States government during World War II and maintained throughout the Cold War, which export controls are still in effect; and

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

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

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

WHEREAS, There are pending in the United States Congress Sen. No. 377 and H.R. 695, both of which substantially ease or eliminate current federal export controls on American cryptographic products, and other legislation related to cryptography and export controls is being introduced and considered in the Congress; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes Congress and the President of the United States to take immediate action to revise the current federal export controls on the



export by American companies of cryptographic products; and be it further

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

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