

- SUBJECT:** Making optional draft registration mandatory for driver's license applicants.
- COMMITTEE:** Transportation — favorable, without amendment
- VOTE:** 7 ayes — Krusee, Phillips, Hamric, Garza, Harper-Brown, Laney, Mercer
0 nays
2 absent — Edwards, Hill
- WITNESSES:** For — Claude Hempel, U.S. Selective Service System
Against — None
- BACKGROUND:** The federal Military Selective Service Act requires all American men, including legal immigrants, ages 18 through 25 to register for military conscription with the U.S. Selective Service System (SSS). Men ages 20 to 25 are considered draft-eligible, and registration is prohibited upon reaching age 26.
- The draft was abolished in 1973, and registration ended in 1975. Congress reinstated compulsory registration in 1980. Failure to register is a felony offense punishable by a fine of up to \$250,000 and up to five years' imprisonment. No cases have been prosecuted since the Vietnam era, however.
- Transportation Code Sec. 521.147, enacted in 2001 (HB 116) allows eligible men to register for the draft automatically when they apply for or renew their driver's licenses or obtain duplicates. Forms provided by the Department of Public Safety (DPS) require applicants to indicate whether they consent to having DPS electronically forward the information necessary for draft registration. Provisionally licensed drivers (ages 16 or 17) must renew their licenses annually, then complete a form upon turning 18 to obtain an unrestricted (permanent) license.
- DIGEST:** HB 479 would change from optional to mandatory the DPS's automatic draft registration for driver's license or personal identification certificate

applicants. DPS would have to notify men 18 or older but younger than 26 who apply for original, renewal, or duplicate licenses or certificates that their applications were tantamount to SSS registration. Submitting an application subsequent to such notice would constitute consent to DPS's electronically forwarding application information necessary for SSS registration, if the applicant were not registered already. The bill would not apply to applicant information previously forwarded to SSS.

The bill would allow DPS to post signs containing notice information where driver's license and personal identification certificate applications were accepted. It also would eliminate the draft registration consent statement currently incorporated into the license and certificate applications, along with the requirements that DPS present it to applicants, record their responses, and forward the necessary information from consenting applicants.

HB 479 would take effect September 1, 2003, and apply only to applications submitted on or after that date.

**SUPPORTERS
SAY:**

HB 479 would create a simpler, more effective, way for young men to meet their legal obligation to register with the selective service system. Texas falls below the national average in terms of eligible men registered for selective service. According to SSS, only 64 percent of the state's 18-year-old male population was registered as of October 2002, which ranks Texas 49th among in this category. This rate was the same in October 2001, demonstrating that the optional program is not working. At least five states with mandatory registration laws have compliance rates of 85 percent or higher. Nine other states and one territory in the same SSS region as Texas have mandatory registration laws.

Linking draft registration to obtaining driver's licenses or personal identification certificates helps young men avoid a federal law violation. It also protects their federal eligibility for executive branch and postal jobs, student financial aid, and job training programs including loans and grants. Legal immigrants of draft age maintain their residency status by registering and retain their right to seek citizenship. Neither DPS nor SSS acquire, access, or share immigration data with any governmental entity.

The state would not incur any significant costs by using this method for draft registration. It essentially is in place already and would require DPS to make only minimal training, printing, and computer software changes. There would be no additional burden on young men who already must obtain permanent driver's licenses or state identification upon turning 18. DPS would handle declining to register for SSS the same way it handles refusals to submit a thumbprint — as a condition that must be met in order to become licensed to drive.

Using data the state already collects from a broad base of citizens also would help ensure the fairness of any future draft, an important issue given recent calls to resume conscription in view of the war on terrorism and possible military action in Iraq and elsewhere. Registration has taken on a new significance since September 11, 2001, especially given the demands being made on our volunteer armed forces and reservists. Any privacy risks arising from this procedure would be outweighed by our national security interests.

The U.S. Supreme Court has upheld registration as constitutional. Merely registering does not preclude a man from refusing military service or declaring himself a conscientious objector were the draft to resume. In such case, alternative ways to serve one's country would be available. This bill is about accountability under the law, not agreeing to fight a war.

**OPPONENTS
SAY:**

The 77th Legislature in 2001 enacted the optional draft registration procedure for driver's license applicants as a compromise that has not had sufficient time to work. Before making registration mandatory, Texas should allow applicants to opt out without forfeiting their ability to obtain a driver's license. This especially applies to members of certain religious faiths, such as Quakers and Mennonites, who object to military service as a matter of conscience. Although federal criminal penalties no longer are enforced, the civil sanctions are significant; Texas should not add to that burden.

The bill would result in cost savings to SSS but not the state. Given the current fiscal situation, any federal savings should be passed on, or at least shared, with Texas to cover any direct or indirect costs, whatever their size.

HB 479 raises serious privacy concerns as another example of governmental over-reliance on Social Security numbers, which have become de facto

federal identifiers. These numbers, which DPS forwards to SSS, can readily be used to commit identity theft when they fall into the hands of criminals. Many immigrants and other non-citizens also live and work in Texas. Obtaining a driver's license or personal ID could raise serious long-term issues regarding potential changes in their immigration status.

**OTHER
OPPONENTS
SAY:**

Though well-intentioned, this bill would offer those with legitimate moral or philosophical objections to draft registration no recourse if they obtained a driver's license. Were prospective applicants to decline, in effect, the state would be denying otherwise qualified citizens a widely held privilege based on an unrelated personal belief. At the very least, these applicants deserve some opportunity for administrative appeal.

NOTES:

In 2001, the House passed HB 116 by Najera and Uresti, making automatic draft registration mandatory for eligible driver's license applicants, on the Local, Consent, and Resolutions Calendar. The House concurred with a Senate amendment making registration optional at the applicants' discretion, and the bill took effect September 1, 2001.