

Massachusetts and the Selective Service

Information for State Legislators

Proposed Law

[H. 3429](#) (Petitioners: Reps. Cutler, Kane), [S. 2365](#) (Petitioners: Sen. O'Connor, Rep. Kane)

“An Act to ensure benefits through enhanced Selective Service registration”

These bills would amend the Massachusetts General Laws to automatically register applicants for drivers' licenses, learner's permits, state ID cards, and renewals of these cards with the Selective Service System unless the applicant opts out. They would permit applicants' personal data to be forwarded to the Selective Service System, which also allows them to be contacted by military recruiters.

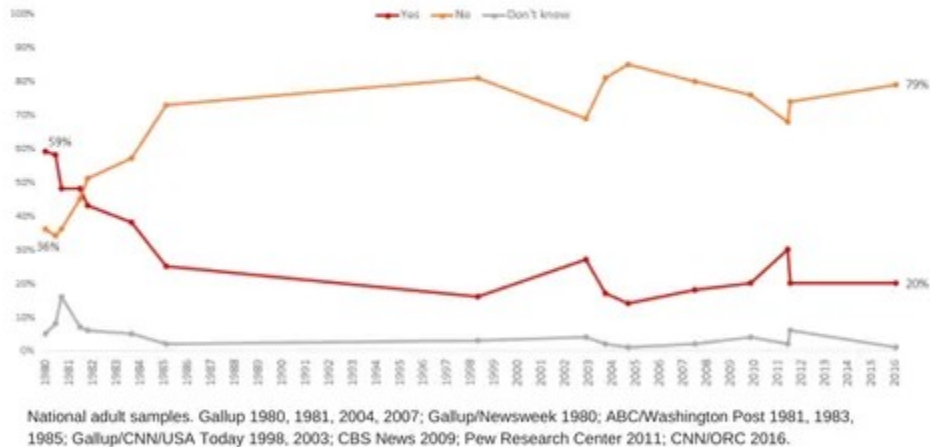
Legislation tying Selective Service registration to drivers' licenses has been introduced in MA since at least 2011. In each case, the bill has had hearings in the Transportation Committee, been reported out favorably, and been referred to the Ways and Means Committee. The bill was originally led by Geoff Diehl.

About the Selective Service System

The Military Selective Service Act requires men who are U.S. citizens or residents to register with the Selective Service System when they turn 18, and report each time they change their address until they reach age 26. [Few young men fully comply](#). This system exists so that the Pentagon can rapidly increase the number of troops serving in the military if our current all-volunteer force is found to be insufficient for warfighting.

Since the Vietnam War, a majority of the American public has consistently opposed reinstatement of the draft. After high-profile prosecutions of draft resisters in the 1980s failed to intimidate young people into compliance, despite convictions and prison sentences, the federal government ended prosecution for non-registrants in 1986. Today, opposition to a return of the draft is overwhelming.

Do you think we should return to the military draft at this time, or not?



Graph provided by The Roper Center for Public Opinion Research at Cornell University

Massachusetts is [still on record](#) as opposing the Constitutionality of any draft for undeclared war. In 1970, during the Vietnam War, undeclared by Congress and widely viewed as unconstitutional, MA passed legislation allowing MA residents to refuse to serve if drafted into an undeclared war. SCOTUS [refused to hear the case](#), and MA residents continued to be drafted. However, this lawsuit helped bring about the 1973 War Powers Resolution to check the President's power on entering a war without Congressional approval.

What's wrong with the Selective Service System?

The Selective Service system is ineffective, outdated, and unnecessary. The United States has not enacted a draft in nearly 50 years and has not prosecuted non-registrants since 1986. The former Director of the Selective Service System, who oversaw the establishment of the current registration system in 1980, [testified](#) in 2019 that the current database is so incomplete and inaccurate that it would be “less than useless” for an actual draft. Military officials have stated that an all-volunteer force is preferable to forced conscription and they do not expect to need a draft in the future. The system is now mostly used for recruitment purposes, which particularly targets marginalized and low-income communities. Military planners rely on the availability of the draft as a “fallback” – a mistaken belief which encourages dangerous military overreach.

Additionally, many people have moral and religious objections to warfighting. Even though the US hasn't had an active draft since 1973, millions of people continue to live under oppressive penalties for not registering. Punishments are levied extra-judicially, meaning that those who refuse or neglect to register *for any reason*, including moral or religious beliefs, are not afforded due process to speak for their actions or to compel the government to make its case in defense of registration. The proposed Massachusetts law, like the current federal law, makes no provision for conscientious objectors to the registration requirement.

States' Rights and Federal Overreach

Massachusetts is one of 10 states (Alaska, California, Massachusetts, New Jersey, North Dakota, Nebraska, Oregon, Pennsylvania, Vermont, and Wyoming) that does not have state laws linking drivers licenses to Selective Service legislation. The Selective Service System relies on these state laws for most registrations, and has no effective leverage to get young people in states without such laws to register for the draft.

Forced conscription has always been controversial, hence the historical resistance of a number of states, like MA and CA, to comply with federal requests to force registration through state systems. In coordination with state and local governments, the federal government uses extrajudicial punishments to force compliance. As it stands, the federal government has not enforced compliance since 1986 because of the mass unpopularity, protests, and – perhaps most of all – ineffectiveness of criminal prosecutions of draft resisters.

The Selective Service System has, in recent years, increased their focus on [compliance through state drivers' license legislation](#), particularly in populous states and in states with low compliance. Because of ethics laws around lobbying by federal employees, Selective Service staff cannot directly advocate to states for drivers' license legislation. However, they have made sample legislation available, and rely on Regional Directors, State Directors, and Detachment Commanders to provide such resources to state officials. The proposed MA legislation follows the recommendations laid out by the Selective Service agency for state cooperation.

Registration for a military draft has no relevance to the purpose of issuing drivers' licenses and state IDs. **Massachusetts is not required to enact this bill or impose any state sanctions**, including educational or employment sanctions, on people who don't register with the Selective Service. There are no Federal penalties against states that do not enact such laws. Federal laws should be enforced by the Federal government, at Federal expense, with uniform legal rights and legal penalties nationwide for violations of Federal laws. People accused of a crime are entitled to their day in court before being punished or excluded from state programs.