

Senate Commerce Committee

Aaron Jones 271-2609

HB 457, relative to the occupancy of housing units.

Hearing Date: May 6, 2025

Time Opened: 11:02 a.m.

Time Closed: 11:32 a.m.

Members of the Committee Present: Senators Innis, Ricciardi, Murphy, McGough, Fenton and Reardon

Members of the Committee Absent : None

Bill Analysis: This bill prohibits cities, towns, and municipalities from mandating that occupants of housing units be related by blood or marriage.

Sponsors:

Rep. Pauer

Rep. Alexander Jr.

Rep. Bean

Rep. Berry

Rep. Damon

Rep. Farrington

Rep. A. Murray

Rep. Presa

Rep. Read

Rep. Wheeler

Sen. Innis

Sen. Murphy

Sen. Reardon

Sen. Watters

Who supports the bill: Representative Diane Pauer, Representative Jonah Wheeler, Dawn McKinney (NH Legal Assistance), Nick Taylor (Housing Action NH), Chris Norwood (NH Realtors), Drew Cline (Josiah Bartlett Center), Jeff Berlin, Nick Norman (AANH & RPOA), Natch Greyes (BIA), Katherine Lesnyk, Eric Pauer, Lois Cote, Scott Burns, James Gardner, Timothy Finney, Curtis Howland, Janet Lucas, Haley Demers, Katherine Porter, Katie McLaughlin, Rebecca Fatherree, Charles Lindstrum, Steven Kimball, Kathleen Lord, Mark Lord, Robyn Kinsella, Laura Sokoloski, Grace Murray (NH Youth Movement), Bill Alleman, Aubrey Freedman, Gale Bailey

Who opposes the bill: Brodie Deshaies (NHMA)

Who is neutral on the bill: Charles Gardner (Mercatus Center), Jason Sorens

Summary of testimony presented in support:

Representative Diane Pauer

- Representative Pauer said this bill had bipartisan support, and it was a re-filing of HB 1281 from 2024.

- After this bill was introduced in the House, it was amended. Representative Pauer said she was not consulted on the amendment, and it did not fully meet the intent of the bill as it was filed.
- As introduced, this bill would have prohibited municipalities from enacting and enforcing zoning ordinances related to the occupancy of a dwelling unit that are based on familial or non-familial relations or marital status, or restrictions on the number of occupants to less than 2 per bedroom.
- Representative Pauer found at least 8 municipalities with zoning that unreasonably limited the number of unrelated people from legally living together.
 - Limiting the number of occupants who can live together to no more than three is referred to as the “three unrelated rule.”
 - It would be illegal for four unrelated friends, coworkers, students, or senior citizens to live in a four-bedroom unit. A family with 2 married adults and 6 children, however, could live in the same four-bedroom unit.
- Given the housing crisis, Representative Pauer said these zoning ordinances were problematic.
- Overly restrictive zoning ordinances are an infringement by the government on using private property in a way that does not pose health or safety concerns.
- Overreaching zoning ordinances artificially limit housing opportunities, and they have an impact on affordability and supply.
- Certain zoning ordinances are unfair practices that needlessly discriminate against unrelated individuals, including working professionals, divorcees, retirees, widows, individuals with a fixed or low income, individuals who are in-between jobs or without employment, elderly and disabled individuals who require in-home care, single parents, and students.
- Earlier this year, one town changed their definition of a student rental to “a residential dwelling composed of one or more dwelling units on a single parcel that includes five or more full-time ungraduated college students as defined by federal law.”
 - For example, a three-unit building with two full-time undergraduates in one unit and four in another would be classified as a student rental. This town further restricted student rentals to only commercial zones.
- Representative Pauer said students and unrelated individuals were being treated unjustly, and the property rights of landlords were being infringed on due to unreasonable occupancy limits.
- As introduced, this bill did not change use nor did it override and allow boarding houses.
- A lodging or rooming house is a building that does not qualify as a one- or two-family dwelling. They provide sleeping accommodations for 16 or fewer people on a transient or permanent basis without separate cooking facilities for individual occupants.

- When drafting this bill, Representative Pauer said the State Fire Marshal stated that life safety code 24.1.1.2 did not apply to this situation. In the original bill, Lines 10 and 11 specified that the enforcement of all building and state fire codes shall not be prohibited.
- **Senator Murphy** said the current language of this bill was the same as SB 170. He asked if it was her request to go back to the original language.
 - **Representative Pauer** said it was her understanding that the language that passed the House was the exact same as SB 170. She would like to see language that closely related to her original bill, but it was up to the Committee.

Representative Jonah Wheeler

- Representative Wheeler said regulations like this would make the problem worse.
- This bill does not change lease agreements. It would be left to landlords to decide what they do not want in their bedrooms.
- Representative Wheeler said there were situations where it was better for an individual to have someone who is not related to them by blood or marriage.

Drew Cline, President, Josiah Bartlett Center for Public Policy

- Mr. Cline said the government had no business regulating the relationship status of individuals who freely choose to live with each other.
- There are public interest law firms who are looking to relitigate this issue to the U.S. Supreme Court under the First Amendment. Mr. Cline said New Hampshire does not want to be the test case.
- There are some municipalities that have a retirement community; however, it would be illegal elsewhere in that municipality for elderly individuals to rent a house together.

Chris Norwood, Vice Chair of the Public Policy Committee, New Hampshire Association of Realtors

- Opponents say towns prohibiting occupancy is not a discriminatory act; however, as a realtor, Mr. Norwood said he would not want to be asking parties if they are married. If he asked these questions, he said he would be challenged in court.
- Rehabilitation centers are a different use, and they are not a residential dwelling.
- This was a private property issue, and Mr. Norwood said some municipalities have gone too far.

Jeff Berlin

- When supply is removed from the market, the rates for students and the workforce are artificially increased.

- In Durham, they changed their zoning by defining students and segregating them into residential zones. As written, Mr. Berlin did not know if this bill solved this issue. If students are added to an amendment, they should be described as a protected class.
- Mr. Berlin stated that language that specifically outlawed the discriminatory practice of limiting college students in certain homes would be best.

Nick Norman, Apartment Association of New Hampshire

- Mr. Norman said they were supportive of anything that increased rental housing. Greater supply would help to reduce demand and increase affordability.
- Mr. Norman did not see a reason why there should be regulations that unrelated individuals should not rent the same dwelling.
- Within the industry, two individuals per bedroom was a common practice.

Natch Greyes, Business and Industry Association

- The amendment introduced by Representative Pauer would help to increase housing supply because it would address existing units that are underutilized. Those units could be filled, which would help to ease some demand and prices.
- For businesses, there are liabilities when they are required to ask occupants about their relationships. Mr. Greyes said business owners should not bear the cost of disputes between local governments, and federal and state constitutional protections.

Summary of testimony presented in opposition:

Brodie Deshaies, New Hampshire Municipal Association

- Lines 7 and 8 would prevent municipalities from adopting requirements in their zoning ordinances to limit the number of unrelated occupants in a residential dwelling unit.
- By placing it in RSA 354-A:8, it would assume zoning ordinances that limit congregate group living in zoning districts would be discriminatory.
- Municipalities treat all individuals the same regardless of their race, age, class, creed, gender, sexual orientation, marital status, familial status, or any other state or federally recognized category. Permitting groups to live in some zoning districts, and not others, was a land use issue.
- RSA 354-A:8 dealt with access to housing, such as the ability to rent or buy property. It did not apply to locally adopted zoning ordinances or land use.
- Many municipalities have ordinances that regulate any building used for congregate living. Residential uses that qualify under these zoning ordinances include group homes, fraternities and sororities, group resource centers, homeless shelters, lodging houses, residential care facilities, residential drug and alcohol treatment facilities, recovery homes, and other similar uses.

- While many look like a single-family or multi-family dwelling, their use is different as well as their impact on residents. There are a lot more individuals, larger parking lots, and different traffic patterns.
- If a single-family dwelling unit was used for group living, it would need to have a variance depending on the zoning district. It also would need to go through site plan review as adopted by the local legislative body.
- Some have said that same sex couples with adopted children would be prohibited from living in dwelling units in some zoning districts that prohibit group living. Mr. Deshaies said this was false because no municipality had zoning ordinances that discriminated against federally or state protected classes. Even though they are not related by blood, they are treated as a family.
- These ordinances were an attempt by municipalities, specifically those with colleges, to prevent housing stock from being bought up by landlords, so they can do per bedroom leases.
- Municipalities wanted to keep some housing availability for year-round residents and the workforce.
- **Senator Murphy** asked where college students would go if a house could hold 6 students, yet the town had an ordinance that no more than 3 students could live in it.
 - **Mr. Deshaies** said it would depend. Some universities, such as Saint Anselm College, have a requirement that students live on campus. There also could be other rental units available in the area. It is being assumed that they do not allow per bedroom leases; however, they could apply for a variance if there were a public benefit.
- **Senator Murphy** believed these regulations backfired in some cases because it could take 10 houses instead of 5 houses to house individuals/
 - **Mr. Deshaies** said it was a double-edged sword. If housing stock is temporarily bought by students, long-term housing for the workforce is lost. Municipalities are trying to protect their existing housing stock, and this bill would have a negative long-term impact on individuals who would like to live and stay in their community. It also could lead to bidding wars between developers on per bedroom leases.

Neutral Information Presented: None