

HB 1057 - AS INTRODUCED

2026 SESSION

26-2309.0
06/08

HOUSE BILL **1057**

AN ACT relative to the maintenance of private roads held in common ownership.

SPONSORS: Rep. Aylward, Merr. 5; Rep. Fracht, Graf. 16

COMMITTEE: Public Works and Highways

ANALYSIS

This bill:

I. Establishes default procedures for cost-sharing, maintenance, and dispute resolution among landowners who hold common ownership of private roads.

II. Defines terms, clarifies the responsibilities of owners for maintaining roads that provide actual and reasonable access, and outlines notice requirements, emergency actions, and enforcement mechanisms.

III. Excludes roads governed solely by easement, deeded access, or license, and provides a framework for equitable cost allocation and judicial relief in the absence of a governing agreement.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT relative to the maintenance of private roads held in common ownership.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Private Roads Held in Common Ownership. RSA 231:81-a is repealed and reenacted to read
2 as follows:

3 231:81-a Private Roads Held in Common Ownership.

4 I. In this section:

5 (a) "Private road" means any way located on private property, not accepted or
6 maintained by a municipality or the state, and not a class V highway, which is held in common
7 ownership by 2 or more landowners and provides actual and reasonable access to their properties.

8 (b) "Maintenance" means to keep a road in a state of repair or to preserve it from
9 decline, such that it remains suitable for travel thereon, including all work necessary for passable,
10 all-season travel such as snow and ice removal, grading, pothole filling, repairing washouts, and
11 ensuring emergency vehicle access where topographically possible. Installation of improvements,
12 such as culverts, fencing, or upgraded materials, shall not be included without the written consent of
13 a majority of owners, unless otherwise provided by recorded agreement. No maintenance may
14 obstruct established ditches or stormwater channels.

15 (c) "Equal" means ownership held in undivided interests, whether by joint tenancy,
16 tenancy in common, or other shared title, excluding rights established solely by easement, deeded
17 access, or license, and characterized by equally comparable use and benefit among the owners.

18 (d) "Equitable" means proportional contribution based on ownership, use, and benefit,
19 considering factors such as length of road used, intensity or frequency of use, number of units or
20 occupants served, or other reasonably related factors.

21 II. In the absence of active homeowners' association bylaws or an express agreement, when
22 more than one landowner holds a common interest, each road owner shall contribute either equally
23 or equitably to the reasonable and necessary cost of maintaining the road due to normal wear and
24 tear or events beyond their control.

25 III. Before undertaking maintenance or repairs requiring shared costs, one or more road
26 owners shall provide not fewer than 30 days' written notice to all owners. Such notice shall describe
27 the proposed work, estimated costs, proposed cost allocation, contribution deadline, and reference to
28 this section.

29 IV. In emergencies where access is completely obstructed, any owner or person acting on
30 behalf of an owner may undertake temporary repairs or remove obstructions without prior consent,
31 providing prompt notice to the other owners. Costs shall be allocated afterward as provided in this

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1 section. Routine maintenance reasonably necessary to keep the road passable, including snow
2 removal and minor repairs, may be undertaken voluntarily by or on behalf of any owner without
3 prior consent.

4 V. Any owner who directly or indirectly causes damage shall repair or restore the road
5 within 5 days of written notice, delivered in person or by verified mail. After this period, other
6 owners may undertake repairs and seek enforcement under this section.

7 VI. No obstruction, encroachment, or signage may be placed within road boundaries without
8 unanimous consent of owners. Unauthorized items may be removed by any owner or agent, subject
9 to reasonable care.

10 VII. No person acquires rights in a road held in common ownership by adverse or
11 prescriptive use after the effective date of this act, unless adjudicated prior. Nothing in this section
12 is intended to extend or restrict New Hampshire common law as applied to easements, licenses, or
13 other rights of access over private land.

14 VIII. In disputes over costs or proposed work, owners may pursue mediation prior to civil
15 action. Any owner may petition the superior court for equitable relief. The prevailing party in
16 enforcement actions may recover reasonable costs, including attorney's fees, unless otherwise
17 ordered by the court.

18 IX. If any provision of this section or the application thereof to any person or circumstance is
19 held invalid, the invalidity does not affect other provisions or applications of the section which can be
20 given effect without the invalid provisions or applications, and to this end the provisions of this
21 section are severable.

22 2 Effective Date. This act shall take effect January 1, 2027.