

1 **13-1666. Liability for social hosts in a licensed establishment.**

2 To establish the claim against _____ (*name of defendant*),
3 _____ (*name of plaintiff*) has the burden of proving the following elements:

4 1. _____ (*name of defendant*) provided alcoholic
5 beverages to _____ (*name of guest or plaintiff*);

6 2. At the time _____ (*name of defendant*) provided the
7 alcoholic beverages to _____ (*name of guest or plaintiff*),
8 _____ (*name of guest or plaintiff*) was intoxicated;

9 3. _____ (*name of defendant*) provided the alcoholic
10 beverages recklessly; and

11 4. _____ (*name of guest or plaintiff*)'s intoxication was a
12 cause of _____ (*name of guest or plaintiff*)'s [injuries and] damages.

13 [To prove that _____ (*name of defendant*) provided alcoholic beverages to
14 _____ (*name of guest or plaintiff*), _____ (*name of plaintiff*)
15 must prove that _____ (*name of defendant*) had some responsibility for or
16 control over the service of alcohol to _____ (*name of guest or plaintiff*). You must
17 consider all of the circumstances. For example, you may consider whether _____
18 (*name of defendant*) set up a gathering for a specific purpose or benefit to _____ (*name*
19 *of defendant*), such as to celebrate an event, or to promote business goodwill; whether
20 _____ (*name of defendant*) arranged in advance for the provision of food and beverages
21 or; whether _____ (*name of defendant*) invited _____ (*name of*
22 *guest or plaintiff*) to attend as ~~[[his] [her] [its]]~~ _____ (*name of defendant*)'s
23 guest. The presence or absence of a particular circumstance does not necessarily resolve whether

1 _____ (*name of defendant*) had some responsibility for or control over the provision
2 of alcohol to _____ (*name of guest of plaintiff*.)]

3 USE NOTES

4 This instruction is based on NMSA 1978, Section 41-11-1(E) (1986). It should be given
5 when the plaintiff claims injury resulting from the provision of alcohol in a social setting inside a
6 licensed establishment. This instruction is to be used either when the claim is brought by a third
7 party or by the person who was provided with the alcohol. If the provision of the alcoholic
8 beverages takes place outside a licensed establishment, UJI 13-1665 NMRA should be used
9 instead of this instruction. The instruction should be given with the appropriate definitions from
10 UJI 13-1660 NMRA. The bracketed paragraph should only be used when there is a factual dispute
11 regarding whether the defendant provided alcohol to the person whose intoxication is at issue and
12 may be modified based on the facts of the case.

13 [Adopted by Supreme Court Order No. 15-8300-005, effective for all cases pending or filed on or
14 after December 31, 2015; as amended by Supreme Court Order No. S-1-RCR-2025-00126,
15 effective for all cases pending or filed on or after December 31, 2025.]

16 **Committee commentary.** — NMSA 1978, Section 41-11-1(E) defines the liability of a person
17 who provides alcoholic beverages to guests in a social setting. The case law and Section 41-11-
18 1(H) refer to such person as a “social host.” *See, e.g., Delfino v. Griffio*, 2011-NMSC-015, ¶ 13,
19 [~~150 N.M. 77~~]150 N.M. 97, 257 P.3d 917. The statute allows the guest or a third party to recover
20 damages caused by the guest’s intoxication when the elements set forth in the statute are satisfied.
21 Most cases that include claims under Section 41-11-1(E) arise from service of alcohol at a private
22 home or other private settings that are not licensed establishments. However, in *Delfino*, the New
23 Mexico Supreme Court stated that “social hosting need not occur in a home.” *Id.* [¶24]¶30 “[T]he

1 Liquor Liability Act permits a cause of action against a social host who recklessly provides alcohol
2 to a guest when the alcohol is consumed in a licensed establishment” and delivered by a licensed
3 server. *Id.* [¶ 30] ¶ 24. The Supreme Court made clear in *Delfino* that not all situations involving
4 one person providing alcohol to another in a licensed establishment give rise to liability under the
5 statute. “Social host liability . . . requires some degree of control over the service or consumption
6 of alcohol.” *Id.* [¶ 32] ¶ 25 (citing *Chavez v. Desert Eagle [Distributing] Distrib. Co. of [New*
7 *Mexico]* *N.M.*, 2007-NMCA-018, ¶ 31, 141 N.M. 116, 151 P.3d 77).

8 For the defendant to be entitled to the higher standard of care set forth in Section 41-11-1(E), the
9 defendant must prove that the service of alcoholic beverages was gratuitous and in a social setting.
10 In most cases, these matters will not be a matter of factual dispute. If such a dispute exists, further
11 instruction may be necessary.

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13 ~~or after December 31, 2015~~]; as amended by Supreme Court Order No. S-1-RCR-2025-00126.]