

Social Hosts—Liability For Provision of Alcoholic Beverages—N.J. Stat. Ann. §§ 2A:15-5.2, -5.5 to -5.8 (West Supp. 1988).*

The Act establishes legal principles for the imposition of liability on social hosts who serve alcoholic beverages to their guests. A social host is a person who invites another person to a place for hospitable purposes and serves alcoholic beverages to this person.¹ The social host is not required to have a license to serve alcohol.²

This Act provides an exclusive remedy for injuries to persons and property caused by a person who was negligently served alcoholic beverages by a social host.³ A person may recover damages from a social host only under certain circumstances.⁴

The social host is required to have willfully and knowingly served alcohol.⁵ The person must either have been visibly intoxicated in the presence of the social host⁶ or visibly intoxicated to the degree that he exhibited a "reckless disregard of the consequences . . . affecting the life or property of another."⁷ The Act also requires that the social host fail to exercise reasonable care and diligence by providing an intoxicated person with alcohol which resulted in an unreasonable risk of foreseeable harm.⁸ Finally, the Act permits recovery only for injuries that result from the negligent operation of a vehicle by the intoxicated guest.⁹ However, the intoxicated guest is barred from a recovery for any injuries he may have sustained.¹⁰

The Act provides guidelines, based on blood tests, to aid in the determination of whether the guest was visibly intoxicated at the time the alcohol was provided to him by the social host.¹¹ A

* For an in-depth analysis of alcohol server legislation, see Note, *supra* at 53.

¹ N.J. STAT. ANN. § 2A:15-5.5 (West Supp. 1988).

² *Id.*

³ *Id.* § 2A:15-5.6(a).

⁴ *Id.* § 2A:15-5.6(b).

⁵ *Id.* § 2A:15-5.6(b)(1). "Visibly intoxicated" is defined as "a state of intoxication accompanied by a perceptible act or series of actions which present clear signs of intoxication." *Id.* § 2A:15-5.5.

⁶ *Id.* § 2A:15-5.6(b)(1)(a).

⁷ *Id.* § 2A:15-5.6(b)(1)(b).

⁸ *Id.* § 2A:15-5.6(b)(2).

⁹ *Id.* § 2A:15-5.6(b)(3).

¹⁰ *Id.* § 2A:15-5.7.

¹¹ *Id.* § 2A:15-5.6(c).

test result of less than .10% alcohol in the blood gives rise to an irrebuttable presumption that the guest was not visibly intoxicated in the presence of the host and that the host did not serve alcohol to the guest so as to create a risk of endangerment to life or property.¹² A blood alcohol concentration of more than .10% but less than .15% gives rise to a rebuttable presumption.¹³

In actions where the issue of liability is in dispute, the Act requires the trier of fact to make several findings of fact. The trier of fact must calculate the total value of the injured party's damages regardless of fault.¹⁴ The trier of fact must then establish the percentage of negligence attributable to each party to the action.¹⁵ The judge is required to mold the judgment consistent with the findings of the jury.¹⁶ The injured party shall recover no more than the value proportional to the percentage of negligence with which the social host was attributed.¹⁷

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¹² *Id.* § 2A:15-5.6(c)(1).

¹³ *Id.* § 2A:15-5.6(c)(2).

¹⁴ *Id.* § 2A:15-5.2(a).

¹⁵ *Id.* § 2A:15-5.2(b).

¹⁶ *Id.* § 2A:15-5.2(c).

¹⁷ *Id.* § 2A:15-5.8.