

Landlord Serving Alcohol: Potential Liability

When a community conducts a party for its residents, the landlord may wonder what his or her responsibilities and liabilities are in serving alcoholic beverages.

Under Arizona law, a statute provides that as long as the landlord is unlicensed (no liquor license) and a social host, he or she is immune from any lawsuit arising from the serving of alcoholic beverages at an apartment community social function. Arizona Revised Statute Section 4-301 states:

A person other than licensees or an employee of a licensee acting during the employee's working hours or in connection with such employment is not liable in damages to any person who is injured, or to the survivors of any person killed, or for damage to the property, which is alleged to have been caused in whole or in part by reason of or serving of spirituous liquor to a person of the legal drinking age.

Case law in Arizona holds that a social host will not be liable to a third party who is injured as a result of an intoxicated guest to whom that person has served or provided alcohol. This immunity also can extend to the employee providing alcohol in the workplace in a manner considered outside the scope of the employee's duty to the employer. A court interpreted the adoption of this statute to mean it has "foreclosed liability for anyone, other than a licensee and his or her employees, for injuries resulting from the serving or furnishing of alcohol."

The courts repeatedly rule that a landlord cannot be held liable unless he or she holds an Arizona liquor license and engages in the business of serving, furnishing and/or selling alcoholic beverages.

In one recent case, the court ruled that a travel agency, which arranged trips that included alcoholic beverages distributed to travelers, could not be considered a "defacto" licensee and refused to impose liability.

Also, a court did not rule against a landlord when a resident, who happened to be a licensed alcohol distributor, sold alcoholic beverages to another person who was ultimately injured.

Verify Ages When Serving Alcohol

Exceptions arise, however, when providing alcoholic beverages to residents and their guests who are under the legal drinking age.

An Arizona court held that the immunity statute does not protect a social host from a suit arising from injuries sustained by a third part's negligence in providing alcoholic beverages to underage drinkers.

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To avoid liability, the landlord must insure that he or she or employees at the apartment community do not serve alcohol to underage residents or guests at social functions. Residents and guests at such events should show identification verifying their age.

Therefore, the apartment community can conduct a social function and serve alcoholic beverages free of charge to its residents and their guests and not face liability, as long as the recipients are of legal drinking age.

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