

## Civ. J.I. 13.1210.Family purpose doctrine

Statute text

**If you find that the motor vehicle operated by \_\_\_\_\_ (*driver*) [was made available by \_\_\_\_\_ (*head of household*) to \_\_\_\_\_ (*driver*) for any purpose on this occasion] [or] [was furnished by \_\_\_\_\_ (*head of household*) to family members of the household, including \_\_\_\_\_ (*driver*), for general use] [and that \_\_\_\_\_ (*driver*) was a family member of \_\_\_\_\_ (*head of household*) household], then \_\_\_\_\_ (*head of household*) is liable for damages proximately caused by negligent operation of the vehicle by \_\_\_\_\_ (*driver*).**

### DIRECTIONS FOR USE

The parties should fill in the blanks to personalize this instruction as much as possible. The appropriate brackets should be used where supported by the evidence. Either the first or second bracketed material, or both, may be used where appropriate. Each forms an independent basis for application of the family purpose doctrine and it may not be necessary to use both brackets in every case. The last bracket should be used in any case where the driver's status as a member of the household is a jury issue.

### History

[As amended, effective January 1, 1987; November 1, 1991.]

### Annotations

**Committee comment.** - The New Mexico Supreme Court has considered the family purpose doctrine in several cases including the following: *State Farm Mut. Auto Ins. Co. v. Duran*, 93 N.M. 489, 601 P.2d 722 (Ct. App.), cert. denied, 93 N.M. 683, 604 P.2d 821 (1979); *Peters v. LeDoux*, 83 N.M. 307, 491 P.2d 524 (1971); *Pavlos v. Albuquerque Nat'l Bank*, 82 N.M. 759, 487 P.2d 187, 56 A.L.R.3d 558 (Ct. App. 1971); *Cortez v. Martinez*, 79 N.M. 506, 445 P.2d 383 (1968); *Lopez v. Barreras*, 77 N.M. 52, 419 P.2d 251 (1966).

The New Mexico Supreme Court decision in *Madrid v. Shryock*, 106 N.M. 467, 745 P.2d 375 (1987) set forth public policy considerations in the application of the Family Purpose Doctrine. While not overruling any of the previous cases on Family Purpose, see *State Farm Mut. Auto Ins. Co. v. Duran*, 93 N.M. 489, 601 P.2d 722 (Ct. App. 1979); *Burkhart v. Corn*, 59 N.M. 343, 284 P.2d 226 (1955); *Peters v. LeDoux*, 83 N.M. 307, 491 P.2d 524 (1971); the Court rejected the traditional agency theory of liability.

A head of household, however, is not necessarily liable for the negligence of a minor child when the vehicle is owned and maintained by the minor child.

**Library references.** - 61A C.J.S. Motor Vehicles §§ 530, 531, 551.

### **COMPILER'S ANNOTATIONS**

**The 1991 amendment,** effective for cases filed on or after November 1, 1991, rewrote the instruction to the extent that a detailed comparison would be impracticable.

**Family purpose doctrine inapplicable.** - The family purpose doctrine was inapplicable as a matter of law where the son maintained the vehicle and no one exercised control or had right of control over the vehicle except the son, even though the father cosigned the note to secure financing for the purchase of the vehicle and was named on the registration certificate. Madrid v. Shryock, 106 N.M. 467, 745 P.2d 375 (1987).

The mere facts that the son lived in the family home and that a family member was a passenger in the vehicle at the time of the accident are insufficient to establish a "family purpose." Madrid v. Shryock, 106 N.M. 467, 745 P.2d 375 (1987).

The family purpose doctrine was inapplicable where the driver was insured and was therefore not "financially irresponsible," and where plaintiff failed to establish that the driver's husband furnished the vehicle to the driver or otherwise had sufficient control over it and the defendants were not living together at the time of the accident. Hermosillo v. Leadingham, 2000-NMCA-096, 129 N.M. 721, 13 P.3d 79.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - Liability of donor of motor vehicle for injuries resulting from owner's operation, 22 A.L.R.4th 738.