

### **13-1411. Supplier regarded as manufacturer.**

Under a claim of failure to use ordinary care, a supplier who permits a product to be sold as [his] [her] [its] own is subject to the duties of a manufacturer, even though the product was, in fact, made by someone else.

A supplier permits a product to be sold as [his] [her] [its] own if [he] [she] [it] labels or markets it in such a way that the purchaser is reasonably led to believe that the supplier made the product or had the product made to [his] [her] [its] specifications.

#### **USE NOTES**

This instruction shall be given where an issue exists concerning the status of a defendant who has distributed the product but did not make it. For the purpose of applying the particular duties of the manufacturer contained in UJI 13-1410, the plaintiff is contending that the defendant has held itself out as the manufacturer. This instruction must not be given if plaintiff's case is based solely upon strict liability. [As amended, effective November 1, 1991.]