

13-1410. Particular duties of the manufacturer.

The manufacturer of a product must use ordinary care in:

- (1) [formulating] [designing] the product;
- (2) making the product;
- (3) [inspecting] [testing] the product; and
- (4) packaging the product.

[A manufacturer need not necessarily design into the product or adopt features which represent the ultimate in safety. You should consider a manufacturer's ability to eliminate a danger without seriously impairing the usefulness of the product or without making it unduly expensive.] Ordinary care requires a product that is reasonably safe for foreseeable use in light of all the circumstances.

In [designing] [testing] [packaging] a product, the manufacturer has the duty to possess and apply the knowledge available to reasonably prudent manufacturers.

USE NOTES

This instruction is to be given in a negligence action where the defendant supplier is the manufacturer of the product or may be regarded by the jury as manufacturer under UJI 13-1411 NMRA. The proper brackets should be selected, depending upon the aspect of the manufacturing process which is in issue in the case. If a step in the manufacturing and distributing process is not involved in the lawsuit, it should be eliminated from the instruction. This instruction must not be given if plaintiff's case is based solely upon strict liability.

The bracketed sentences in the second paragraph shall be given only if plaintiff contends that the product was negligently designed.