

13-1407. Strict products liability; unreasonable risk of injury.

An unreasonable risk of injury is a risk which a reasonably prudent person having full knowledge of the risk would find unacceptable. This means that a product does not present an unreasonable risk of injury simply because it is possible to be harmed by it.

[The design of a product need not necessarily adopt features which represent the ultimate in safety. You should consider the ability to eliminate the risk without seriously impairing the usefulness of the product or making it unduly expensive.]

Under products liability law, you are not to consider the reasonableness of acts or omissions of the supplier. You are to look at the product itself and consider only the risks of harm from its condition or from the manner of its use at the time of the injury. [The question for you is whether the product was defective, even though the supplier could not have known of such risks at the time of supplying the product.]

USE NOTES

This is the basic instruction defining "unreasonable risk of injury" and, except where misrepresentation is the only theory of recovery, must be used in every set of strict products liability instructions in lieu of "dangerous to an extent beyond that which would be contemplated by the ordinary consumer who purchases it with the ordinary knowledge common to the community as to its characteristics".

The bracketed paragraph two shall be given only if plaintiff contends that the product's design presents an unreasonable risk of injury.

The bracketed sentence in paragraph three shall always be given if plaintiff contends that the product when supplied, contained a production flaw which was a cause of injury. As discussed under the last paragraph of the committee commentary below, the trial judge will determine, based upon developing law, whether the final sentence of this instruction is also applicable to products cases alleging inadequate design or warning.

[As amended, effective March 1, 2005.]