

13-1422. Changed or altered product.

In order for a supplier [a particular supplier who was in the chain of marketing the product] to be liable, the injury must have been caused by a condition of the product which was not substantially changed from the condition in which the [particular] supplier placed the product on the market or in which the supplier could have reasonably expected it to be used.

For substantial change in the product to relieve a supplier of liability, the change itself must be a cause of the harm done.

USE NOTES

This instruction must be given only where an issue has been raised concerning subsequent change or alteration of the product and sufficient evidence has been introduced to permit a finding that the change or alteration was a cause of the plaintiff's injury. The bracketed language should be selected where more than one supplier is involved.

Where substantial change or alteration of the product is a submissible issue, UJI 13-1401 NMRA should be expanded to reflect that the plaintiff has the burden of proving that the defect relied upon was present when the product was originally sold or leased. For example, by changing the first sentence of Paragraph C of UJI 13-1401 NMRA to read:

Plaintiff claims that defendant is subject to products liability for an unreasonable risk of harm arising when the product was [sold] [leased].
Plaintiff claims that the risk was caused by the product's condition at that time or a reasonably anticipatable manner of use and that this risk was a cause of plaintiff's injury and resulting damages.

[As amended, effective March 1, 2005.]