

13-1421. Liability per se; statute or ordinance.

There was in force, at the time the product was _____ (made, leased or sold), a [statute] [ordinance] which provided that: _____

(NOTE: Here quote or paraphrase the applicable statute or ordinance.)

If defendant conducted [himself] [herself] in violation of this [statute] [ordinance], such conduct created an unreasonable risk of injury for which defendant is liable for damages caused to plaintiff by the violation [unless you further find that the violation was excusable or justifiable].

[To legally justify or excuse a violation, the violator has the burden of showing that [he] [she] did that which a reasonably prudent supplier would have done, acting under similar circumstances, in desiring to obey the law].

USE NOTES

This instruction must be given only where there is a submissible issue concerning plaintiff's contention that a product was made or supplied in violation of a statute or ordinance. The court must make a preliminary determination of the applicability of the statute or ordinance relied upon by the plaintiff. Applicability depends upon the purpose of the legislation. The court must find that the statute or ordinance was enacted for the benefit or protection of the plaintiff, or for the benefit or protection of a class of the public to which the plaintiff belongs, and that it establishes a duty upon the defendant. If the statute or ordinance was enacted to give protection against a particular hazard or form of harm, it is applicable only if the plaintiff's injury could be found to have been caused by the hazard which the statute intended to prevent.

Where this instruction is given, the applicable part of the statute or ordinance in question must be quoted or paraphrased.

The bracketed language referring to excuse or justification of the violation and the bracketed third paragraph should not be given unless the court holds, as a matter of law, that there is sufficient evidence of excuse or justification for the issue to go to the jury. Absent such evidence, the "liability per se" rule applies, and the defendant supplier is liable for damages caused by the violation.

This instruction contains the element of causation, without definition, and should be accompanied by UJI 13-1424 NMRA.

[As amended, effective November 1, 1991; March 1, 2005.]