

5.40F DEFECT BEFORE SALE

The next basic element of any product liability claim is that the product must have been defective when it was distributed by a manufacturer or seller who is being sued. In other words, plaintiff must prove that the defect existed before the product left the control of a particular defendant.¹

¹ Compare *Scanlon, supra*, 65 N.J. 582, with *Moraca, supra*, 66 N.J. 454, for cases involving a manufacturing defect where the product has been in use for some period of time. This section of the charge should be expanded to take into effect the factors listed in those cases.