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PRODUCTS LIABILITY IN WISCONSIN

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A RATHER large variety of claims have been presented because of numerous alleged defective products. Some involve automobiles and numerous kinds of machines. Drugs, foods, beverages, tobaccos, soaps, oils, explosives and weapons have also been claimed to be defective. This enumeration is, of course, not intended to be complete. In a paper delivered at the convention of the American Bar Association at Kansas City in September of 1937, Mr. Roscoe R. Koch of the Philadelphia Bar aptly introduced the subject by stating:

> "Let us consider the kinds of suits and claims that arise . . . not with the idea of harrowing the imaginations of those present who have not strong stomachs—for the number of quartered mice, mumified cockroaches, abandoned cigar butts and other delicacies that star in some of the reported legal dramas are an unappetizing array indeed!"

An examination of the decisions of the Wisconsin Supreme Court will indicate, that although automobiles and various kinds of machines, drugs, foods, soaps, shoes and explosives have been involved, yet the injuries claimed for the most part have been substantial. It is true that trial courts on occasions have been called upon to determine liability where the damages are of little consequence and are on some occasions quite doubtful. But in any event, the trial courts and the bar have been favored with decisions where the questions involved have received serious consideration.

Liability is not infrequently claimed to exist on the ground that there is breach of either an expressed or implied warranty. If liability is claimed to exist because of implied warranty, reliance is usually placed on the provisions of Wis. Stat. (1911) Section 121.15(1) Section 15 of the Uniform Sales Act. This sub-section provides that where the seller knows of the particular purpose for which the goods are required and the buyer relies on the seller's skill and judgment, there is an implied warranty that the goods shall be reasonably fit for such purpose.

Liability on this theory, however, is limited to the immediate parties to the contract. In *Prinsen* v. *Russo,* 194 Wis. 142, 215 N.W. 905, (1927) plaintiff's husband purchased some ham sandwiches from a restaurant proprietor. Plaintiff became ill as the result of eating one of the sandwiches. The jury found that there was no negligence on the

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part of the defendant. The Court held that there was no liability for any breach of warranty, as liability on such theory applied only between the buyer and the seller.

Other reasons also may be urged as to why there is no liability under this theory. For instance, it has been held that there is no implied warranty by a retailer that there are no latent defects in a product which are discoverable only by tests where the goods are purchased by description and nothing was specified with respect to its quality. See *United States F. & G. Co.* v. *Western Iron Stores Co.,* 196 Wis. 339, 220 N. W. 192 (1928). This action was brought by the plaintiff as the compensation insurer of the employer of a deceased employee. The employers had purchased a link chain from the defendant. Because of a defect in the chain which caused a link to part, the employee was killed.

Another instance where there can be no recovery on this theory is when no notice of claim is given within a reasonable time as required by Wis. Stat. (1911) Sec. 121.49 (Section 49 of the Uniform Sales Act). It was for this reason that the Court in *Marsh Wood Products Co.* v. *Babcock-Wilcox Co.,* 207 Wis. 209, 240 N.W. 392 (1932), held that there could be no recovery on this theory. As hereinafter pointed out, the Court held that defendant was subject to liability on the negligence theory.

Wis. Stat. (1911) Sec. 121.15 (4) also provides that there is no implied warranty as to fitness for any particular purpose when an article is sold under its patent or under a trade name. Sub-section 6 of the same section is also material because when there is an express warranty which is inconsistent with an implied warranty, the latter is negatived.

This enumeration also is not intended to be complete; these instances are suggested only as some of the common ones where it has been held that the implied warranty theory is not applicable.

In the large majority of instances liability is claimed to exist because of negligence. The leading decision, rendered by an English court in 1842, is *Winterbottom* v. *Wright,* 10 M & W 109. This was an action by a mail coachman to recover for personal injuries sustained when a coach broke down. The defendant, a contractor for the supply of mail coaches, agreed with the Postmaster General that he would also keep the coaches in a safe condition. Plaintiff alleged that the coach was in a dangerous condition due to certain latent defects. A demurrer to the declaration was sustained. It was held that there was no liability as there was "no privity of contract between these parties."

Although this decision is recognized as expressing the general rule on the subject, there has been for many years much dissatisfaction

expressed by certain courts and others. It is sometimes said that the rule is too harsh, that conditions have changed since the rendition of this decision, that because of the growth in advertising a consumer is now much more dependent on a remote producer and the dealer is a mere conduit for the passage of the goods from the manufacturer to the consumer, that personal contacts between manufacturer and consumer have largely disappeared, and that the rule as to caveat emptor should be relaxed.

It is claimed, on the other hand, that a material relaxation of the rule would be contrary to sound public policy, as any substantial relaxation of the rule would extend the liability of the manufacturer generally. It was thus stated in *Curten* v. *Somerset,* 140 Pa. St. 70 (1891):

> "The consequences of holding the opposite doctrine would be far reaching. If a contractor who builds a house, who builds a bridge or performs any work, the manufacturer who constructs a boiler, piece of machinery or steamship, owes a duty to the whole world that his work or his machine or his steamship shall contain no hidden defect, it is difficult to measure the extent of his responsibility, and no prudent man would engage in such occupations upon such conditions. It is safer and wiser to confine such liabilities to the parties immediately concerned."

It has been urged also that a relaxation of the rule would result in a swarm of petty and spurious claims.

Certain well recognized exceptions, in any event, have been engrafted upon the rule set forth in the Winterbottom case. One exists where an article is inherently dangerous, such as an explosive or a poison, and no effectual notice is given to others of its dangerous qualities. A much cited New York case, *Thomas* v. *Winchester,* 6 N.Y. 397 (1852), is generally regarded as the leading case in point. The defendant, a wholesale chemist, sold to a retail chemist as an extract of dandelion a drug which was in fact belladonna. The container in which the drug was placed was wrongly labeled through the negligence of defendant's servants. It was sold by the retail chemist to a physician who in turn supplied it to one of his patients. The Court held that the wholesale chemist was liable for the personal injuries sustained by the patient. It stated:

> "But the case in hand stands on a different ground. The defendant was a dealer in poisonous drugs. Gilbert was his agent in preparing them for market. The death or great bodily harm of some person was the natural and almost inevitable consequence of the sale of belladonna by means of the false label."

The court further stated that "defendant's negligence put human life in imminent danger."

This exception is very generally recognized. The Wisconsin Supreme Court in *Coakley* v. *Prentiss-Wabers Stove Co.,* 182 Wis. 94, 195 N.W. 388 (1923) held that there was liability in an action for personal injuries sustained at the time of an explosion of a portable gasoline stove. It quoted with approval a statement from *Hasbrouck* v. *Armour & Co.,* 139 Wis. 357, 121 N.W. 157 (1909). The quotation so far as material reads:

> "So a manufacturer or vendor putting out and selling articles inherently dangerous, such as explosives or poisons, without notice to others of their dangerous nature or qualities, or with a misleading notice or negligently in any other way, is liable for any injury to any third person which might have been reasonably foreseen by the manufacturer or dealer in the exercise of ordinary care."

This quotation was also cited with approval in *Beznor* v. *Howell,* 203 Wis. 1, 233 N.W. 758 (1930), at page 9.

A second exception exists where there is an article intended to preserve or affect human life, limb or health and it is negligently made, prepared or labeled, or is delivered with erroneous directions as to its use. There probably is some doubt as to whether any Wisconsin decision deals with a state of facts which involves this exception. There is no doubt, however, but that the exception is well embodied in the law of this state. In *Hasbrouck* v. *Armour & Co.,* 139 Wis. 357, 121 N.W. 157 (1909), the Court stated:

> "So a manufacturer or vendor making and selling an article intended to preserve or affect human life is liable to third persons who sustain injury caused by his negligence in preparing, compounding, labeling, or directing the use of such articles, if such injury to others might have been reasonably foreseen in the exercise of ordinary care."

Such statement was also cited with approval in *Beznor* v. *Howell,* 203 Wis. 1 (1930) at page 9. See also *Kerwin* v. *Chippewa Shoe Mfg. Co.,* 163 Wis. 428, 166 N.W. 315 (1916).

A third exception exists where the article is not inherently dangerous, but it invites a certain use and the maker knows that it is imminently dangerous to life, limb or health by reason of its negligent construction. Incidentally, most of the decisions involve this exception. *Bright* v. *The Barnett & Record Co.,* 88 Wis. 299, 60 N.W. 418 (1894) might be discussed in this connection. Defendant constructed a scaffold which it knew was to be used by plaintiff and other workmen. One of the planks in the scaffold, which was defective by reason of a large knot, broke and as the result plaintiff's intestate, an employee, fell and was killed. It was held that defendant was liable as it had impliedly invited the deceased to use the scaffold and as the negligent use of the

defective plank was imminently dangerous to human life. The Court stated at page 306:

> "The defendant in furnishing this staging for the use of the employees of the fire extinguisher company, on which they might stand or walk in doing their work, had in effect *invited* and induced the deceased to walk on it while doing his work, and was liable to him if he suffered injury from its defective condition caused by negligence in its construction. The case may rest on this simple *implied invitation.*"

The following statement also appears at page 307:

> "Such liability may rest upon the duty which the law imposes on every one to avoid acts imminently dangerous to the lives of others. This liability to third parties is held to exist when the defect is such as to render the construction in itself imminently dangerous, and serious injury to any person using it is a natural and probable consequence of its use. This principle is illustrated in *Devlin* v. *Smith,* 89 N.Y. 470."

In *Hasbrouck* v. *Armour & Co.,* 139 Wis. 357, 121 N.W. 157 (1909), it was stated:

> "The manufacturer or dealer who puts out, sells, and delivers, without notice to others of its dangerous qualities, an article which invites a certain use, and which article is not inherently dangerous, but which by reason of negligent construction he knows to be imminently dangerous to life or limb, or is manifestly and apparently dangerous when used as it is intended to be used, is liable to any person who suffers an injury therefrom, which injury might have been reasonably anticipated."

This statement of the exception in question was also quoted with approval in *Beznor* v. *Howell,* 203 Wis. 1, 233 N.W. 758 (1930).

Subsequent to the decision in *Bright* v. *The Barnett & Record Co.,* 88 Wis. 299, 60 N.W. 418 (1894), three decisions were rendered which may cast some doubt as to how this particular exception should be phrased. See comment in *Flies* v. *Fox Bros. Buick Co.,* 196 Wis. 196, 218 N.W. 855 (1928) at page 207. The first is *Zieman* v. *Kieckhefer Elevator Mfg. Co.,* 90 Wis. 497, 63 N.W. 1021 (1895). The defendant had placed a freight elevator in a building where plaintiff was employed in pursuance with an agreement that it should not be accepted and paid for until it was in complete running order. It was operated by an employee who was under the supervision and control of the defendant. While so operated, it fell by reason of a defect in its construction and plaintiff was injured. He had nothing to do with its operation but was working at the foot of the shaft. It was held that there was no liability, as there was no implied invitation to plaintiff to be near the shaft and as elevators are in such universal use that it could not be said that one in use is *per se* an appliance which was

imminently dangerous to life and limb. The reasoning of the Court, it will be noted, was based on the rules set forth in the Bright decision. The second case is *Kerwin* v. *Chippewa Shoe Mfg. Co.,* 163 Wis. 428, 166 N.W. 315 (1916). Plaintiff in this instance had purchased shoes from a retailer who represented that the soles were sewed on. Plaintiff had been wearing the shoes a short time when a nail penetrated his foot. This resulted in serious complications. A demurrer of the defendant manufacturer to the complaint was sustained by the trial court and the order sustaining the demurrer was affirmed on appeal. The basis for the decision was that a nailed sole was not inherently dangerous and that irrespective of whether the soles were sewed or nailed, they did not render the shoe imminently dangerous to life or health. The third case referred to is *Miller* v. *Mead-Morrison Co.,* 166 Wis. 536, 166 N.W. 315 (1918). The defendant in this instance built a coal handling device for a fuel company. About twenty months after its delivery plaintiff was injured when a guard rail gave way. The evidence showed that during this period of twenty months the structure had been subjected to considerable use, had been exposed to weather conditions, and that the rail, when delivery was made was quite substantially constructed and fastened. It was held that such evidence was sufficient to support a finding by the jury that defendant did not have knowledge that the manner of fastening the rail was imminently dangerous. It would seem that these three decisions were correct.

In *Flies* v. *Fox Bros. Buick Co.,* 196 Wis. 196, 208, 218 N.W. 855 (1928), plaintiff sought recovery of damages for personal injuries which were sustained when she was run down and injured by a second-hand automobile that had just been purchased from the defendant, Fox Bros. Buick Co. It had been driven about two or three blocks from the garage to the place where the accident occurred. The driver intended to stop, but was unable to do so because of defective brakes. On appeal a judgment dismissing plaintiff's complaint as to the defendant, Fox Bros. Buick Co., was reversed. The Court stated at page 207:

> ". . . a manufacturer who places a manufactured article in trade and commerce not inherently, but, because of its negligent construction, imminently dangerous to life and limb, is liable to one who sustains injuries by reason of such negligent construction."

In *Marsh Wood Products Co.* v. *Babcock & Wilcox Co.,* 207 Wis. 209, 240 N.W. 392 (1932), recovery was sought from a manufacturer of boiler tubes by the purchaser and by others because of injuries to two employees and the death of a third when one of the tubes exploded. The actions were consolidated for trial. The purchaser sought recovery on two theories: First, because of breach of warranty, and second, for negligence. The three personal injury actions were based upon negli-

gence only. The Court stated that it was unnecessary to discuss in detail the tort liability of manufacturers, but did cite with approval at page 223 a statement from *MacPherson* v. *Buick Motor Co.,* 217 N.Y. 382, 111 N.E. 1050). There the Court, speaking through Justice Cardozo, stated:

> "If the nature of a thing is such that it is reasonably certain to place life and limb in peril when negligently made, it is then a thing of danger. Its nature gives warning of the consequences to be expected. If to the element of danger there is added knowledge that the thing will be used by persons other than the purchaser, and used without new tests, then, irrespective of contract, the manufacturer of this thing of danger is under a duty to make it carefully."

There probably is some question as to just how these exceptions should be stated. In *Bright* v. *The Barnett & Record Co.,* 88 Wis. 299, 60 N.W. 418 (1894), the decision was based upon two grounds: (1) that there was an implied invitation by the defendant to use the scaffold, and (2) that liability might rest upon the duty which the law imposes upon everyone to avoid acts which are imminently dangerous. In *Zieman* v. *The Kieckhefer Elevator Mfg. Co.,* 90 Wis. 497, 63 N.W. 1021 (1895), the Court adhered to the same classification and held that there was no liability under either theory. Judge Sandborn of the 8th Circuit Court of Appeals, in *Huset* v. *J. I. Case Threshing Machine Co.,* 120 Fed. 856 (1903), set forth three exceptions to the general rule, which, however, were some what different from that announced in the Bright case. This decision was referred to by Justice Timlin at the time of the rendition of the decision in *Hasbrouck* v. *Armour & Co.,* 139 Wis. 357 (1909). It should be noted that the statement of the exceptions as set forth by Judge Timlin in the Hasbrouck case was different from both the statements as set forth in the Bright case and also as set forth in the Huset decision. In *Kerwin* v. *Chippewa Shoe Mfg. Co.,* 163 Wis. 428, 166 N.W. 315 (1916), Justice Siebecker announced the exceptions as are here in substance set forth. In *Beznor* v. *Howell,* 203 Wis. 1, 233 N.W. 758 (1930), Justice Nelson quoted from both the Hasbrouck decision and from other authorities. He finally stated that the exceptions were not sufficiently broad to hold the manufacturer. There, however, was no express statement as to just how these exceptions should be stated.

One question which arises in this connection is whether a lack of actual knowledge on the part of a manufacturer or dealer of a negligently constructed article which thereby becomes imminently dangerous absolves the manufacturer or dealer of liability. In *Hasbrouck* v. *Armour & Co.,* 139 Wis. 357, 121 N.W. 157 (1909), it was

held that there was no liability on the part of the manufacturer. The Court stated, page 365:

> "We must assume upon this pleading that the needle was not knowingly placed in the soap by the manufacturer, and that the soap was sold by the manufacturer to the dealer without knowledge that it contained this needle. There is in some sense an implied invitation to use the soap for toilet purposes, but no knowledge or reasonable means of knowledge from the ordinary composition of the product, or from anything brought to the notice of the manufacturer, that such use would be dangerous. A guaranty or warranty not knowingly false or fraudulent does not affect the liability in tort for negligence. The unintentional and negligent dropping of a needle into the mixture is a remote possibility, an extraordinary occurrence, and serious injury resulting from such act to persons using the soap for toilet purposes is an unusual and remote consequence of the careless dropping of such needle into the mixture."

It will be noted that the Court used the phrase "without knowledge"; nothing, however, was said as to what kind of knowledge was meant. In *Miller* v. *Mead-Morrison Co.,* 166 Wis. 536 (1918) the Court stated at page 541:

> "The knowledge referred to in the *Hasbrouck Case* means actual knowledge, and is in harmony with *Zieman* v. *Kieckhefer E. M. Co.,* 90 Wis. 497, 501, 63 N.W. 1021 (1895), and the weight of authority in other jurisdictions."

In *Kashuda* v. *Adams Exp. Co.,* 171 Wis. 25, 176 N.W. 222 (1920), the Court at page 27 commented as follows upon the decision in the Miller case:

> ". . . the defect was a latent one, and it was held not chargeable to the defendant because the case was classed as one where a manufacturer puts out an article having a latent defect for which he is not responsible in the absence of knowledge thereof."

In *Coakley* v. *Prentiss-Wabers Stove Co.,* 182 Wis. 94 (1923), however, the Court stated that the Miller and Kashuda cases were "so dissimilar (as to the facts) to those here presented that it is doubtful if the decision in any one of them can be regarded as decisive in the case before us." The Court finally said: ". . . the defendant knew or ought to have known of the defective condition of the article (the portable gasoline stove) it placed on the market for general use." It was for this reason that the defendant was held to be liable. In *Flies* v. *Fox Bros. Buick Co.,* 196 Wis. 196, 218 N.W. 855 (1928), one of the questions involved was as to whether the dealer knew as to whether the brakes of the automobile were defective at the time of the delivery of the car. The jury had found (in answer to Question 4 of the special verdict) that the dealer in the exercise of ordinary care ought to have

known at the time of the delivery of the car that the condition of the brakes rendered it imminently dangerous to life and limb. In commenting upon this answer the Court stated at page 203:

> "We say that the answer to the question imputed such knowledge to Fox Brothers. We say this because the law imputes to them knowledge which in the exercise of ordinary care they could obtain."

There would thus seem to be no real doubt now but that a manufacturer or dealer is subject to liability if in the exercise of ordinary care he either knew or should have known that the article was imminently dangerous to life, limb or health.

Marsh Wood Products Co. v. *Babcock & Wilcox Co.*, 207 Wis. 209, 240 N.W. 392 (1932), is also important because of an extension of the rule relating to the liability of a manufacturer where property damage has occurred. The Court stated page 226:

> ". . . where the article, if negligently manufactured, will be imminently dangerous to human safety, the liability should extend to property damage in all cases where a causal connection can be established between the defect which constitutes the article a menace and the property damage."

It was for this reason that the Court held that the plaintiff, Marsh Wood Products Co., might recover, even though it sustained property damage only. It should be noted, however, that the extension of the rule is not all property damage, but is to only such property damage which ensues when "the article, if negligently manufactured, will be imminently dangerous to human safety."

The *Marsh Wood Products case* and a few other similar decisions are commented upon in an article by Professor Feezer at 19 Minn. Law Rev. 752. Professor Feezer also points out that the decision in the *Marsh Wood Products* case and in a few other similar cases which he mentioned indicate that the Restatement of the Law of Torts with respect to the liability of the manufacturers "was left behind by the forward progress of the common law while its creators were formulating it." In justice to the "creators" of the Restatement it might be added, however, that the Restatement was not intended to cover all rules of law and that in many instances there was no desire to formulate rules on highly controversial subjects.

The final exception recognized in this jurisdiction exists where liability arises because of defendant's violation of certain statutes. This exception was also mentioned by the Court in *Hasbrouck* v. *Armour & Co.*, 139 Wis. 357, 121 N.W. 157 (1909). The Court stated:

> "If a general rule of statute . . . requires him (the manufacturer or retailer) to take precautions to protect the public against a dangerous substance by proper designation of the thing manu-

> factured or sold, he owes a duty to the public so to do, and for failure in that regard he is liable for the consequences reasonably to be anticipated."

This statement was also cited with approval in *Beznor* v. *Howell,* 203 Wis. 1 (1930) at page 9.

In *Pizzo* v. *Wiemann,* 149 Wis. 235, 134 N.W. 899 (1912), the defendants who were wholesalers, sold a toy pistol to retailers. The latter sold the pistol to plaintiff's intestate, a boy of eleven years of age. He met his death while using the pistol. The sales constituted criminal offenses under Wis. Stat. 340.70 repealed (1929). A judgment overruling a general demurrer to the complaint was affirmed on appeal. The Court stated, page 239:

> "The case is not one on contract, nor even for ordinary negligence, where the doctrine of supervening fault applies, or one where the article was not dangerous in itself, or one where the article was dangerous to the knowledge of the wholesaler, but not to that of the retailer, or the danger was known to both, but not to the person injured. This is a case where the placing of the article on the market was condemned by law, and absolutely prohibited for the very purpose of preventing opportunity for its purchase and use, regardless of the knowledge by the user, of the danger. It was a criminal act. It was, to all intents and purposes, an act done regardless of human safety and human life. The original sale was the initiating cause to which all others tied naturally in proximate relation. The nature of the wrongful act was such that contributing negligence on the part of the last purchaser is immaterial to either criminal or civil liability of the sellers."

In *Haley* v. *Swift & Co.,* 152 Wis. 570, 140 N.W. 292 (1913), the complaint alleged that the defendant sold and delivered to a local dealer "certain adulterated link sausage which contained diseased, infected, putrid, decomposed, and poisonous animal material." This, it was claimed, was in condemnation of Wis. Stat. (1935) 352.02. It was further set forth that the plaintiff ate some of the sausage and was thereby poisoned and injured. The order of the lower court overruling a general demurrer was affirmed on appeal.

The decision is based squarely upon the proposition that there was alleged to be a violation of the statute which prohibited adulterated food. No reference was made to *Pizzo* v. *Wiemann,* 149 Wis. 235, 134 N.W. 899 (1912). The only Wisconsin case relied upon was *Hasbrouck* v. *Armour & Co.,* 139 Wis. 357, 121 N.W. 157 (1909). There, furthermore, was no suggestion, as might be expected from statements set forth in the Pizzo decision, that the act was "done regardless of human safety and human life" (which might indicate that the wrongful act was gross negligence). There also was no reference to intervening cause or to contributory negligence.

The effect of a violation of a criminal statute was also discussed in *Mossrud* v. *Lee,* 163 Wis. 229, 157 N.W. 758 (1916). Plaintiff sought to recover the value of eight cows which had died as the result of eating grass on which a "quack grass destroyer" had been poured. The defendant, a dealer in farm supplies, had drawn the mixture from a barrel and had placed it in containers which he then delivered to plaintiff. No warning, as suggested by the manufacturer, was given that the mixture should be kept away from stock. A judgment based upon a jury's verdict in plaintiff's favor was affirmed on appeal. The Court stated, page 232:

> "Was there sufficient evidence to carry the question of defendant's negligence to the jury? That must be answered in the affirmative. The sale of such a poisonous substance as that in question, without the vendee being made aware of its dangerous character and the container being plainly labeled with the word "Poison", the name and address of the person, firm, or corporation dispensing the substance was, at the time in question, expressly prohibited by Wis. Stat. (1913) 146.02 and violation of the prohibition made punishable as a misdemeanor. Such statute having been enacted for the protection of life and property, a violation of it, under a very familiar rule, is negligence *per se.* So there can be no question but what appellant was guilty as the jury found."

The decision was written by Justice Marshall. It is quite brief. No other decision was cited as authority. The decision is important, not only because of the recognition of the rule, that the violation of a safety statute constitutes in this state negligence *per se,* but also because a violation of such a statute subjects the violator to liability for property damage. In the latter respect the rule is broader than that set forth in the *Marsh Wood Products* case, where liability was predicated on common law negligence. The difference is, of course, quite logical.

As to whether changes, if any, in the above rules should be made as the result of court decisions or by statute, is a question which has been discussed by some of the writers on the subject. Most practicing attorneys, I believe, are of the opinion that any such changes should arise only as the result of laws as enacted by the legislature. An attorney, under such circumstances, is in a much better position to advise his client as to what the law is. The client also is in a much better position to act intelligently and it is not necessary for him to incur a loss, which may be substantial, before being advised as to what are his rights and duties. Furthermore, as stated by Justice Marshall in the Mossrud decision, such a "statute having been enacted for the protection of life and property, a violation of it . . . is negligence *per se.*" Thus a well defined means is afforded in this jurisdiction for affecting such changes, if any, as may be desired.