

## Products Liability Series: What Is the Definition of "Defective Condition" Under Arkansas Law?



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What is the definition of “defective condition” under Arkansas law? “Defective condition” is defined by statute to mean “a condition of a product that renders it unsafe for reasonably foreseeable use and consumption.” Ark. Code Ann. § 16-116-202(2). In making this determination, Arkansas follows the consumer expectation test: a product is unreasonably dangerous if its condition is “beyond that which would be contemplated by the ordinary and reasonable buyer.” Ark. Code Ann. § 16-116-202(7)(A). *Berkeley Pump Co. v. Reed-Joseph Land Co.*, 279 Ark. 384, 395, 653 S.W.2d 128, 133 (1983); *Fullington v. Pfizer, Inc.*, 720 F.3d 739, 746 (8th Cir. 2013) (acknowledging that “Arkansas state courts focus on consumer expectations in determining whether a product is unreasonably dangerous.”). The test assumes the ordinary knowledge of the community or similar users as to the risks and dangers, and the proper and improper uses of the product. Ark. Code Ann. § 16-116-202(7); see AMI 1017. In addition, the dangerousness of the product is evaluated in light of any special knowledge or experience possessed by the particular user. Ark. Code Ann. § 16-116-202(7); see *Harris v. Pacific Floor Mach. Mfg. Co.*, 856 F.2d 64, 26 Fed. R. Evid. Serv. 1067 (8th Cir. 1988) (unreasonably dangerous as to minor).

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