

**§2-314. Implied warranty: merchantability; usage of trade**

(1). Unless excluded or modified by section 2-316, a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. Under this section the serving for value of food or drink to be consumed either on the premises or elsewhere is a sale.

(2). Goods to be merchantable must at least be such as

(a). Pass without objection in the trade under the contract description; and

(b). In the case of fungible goods, are of fair average quality within the description; and

(c). Are fit for the ordinary purposes for which such goods are used; and

(d). Run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved; and

(e). Are adequately contained, packaged and labeled as the agreement may require; and

(f). Conform to the promises or affirmations of fact made on the container or label if any.

(3). Unless excluded or modified by section 2-316, other implied warranties may arise from course of dealing or usage of trade.

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