**§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.

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November 1. 2023
. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.