

## Article - Commercial Law

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§2-314.

(1) Unless excluded or modified (§ 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. Notwithstanding any other provisions of this title

(a) In §§ 2-314 through 2-318 of this title, “seller” includes the manufacturer, distributor, dealer, wholesaler or other middleman or the retailer; and

(b) Any previous requirement of privity is abolished as between the buyer and the seller in any action brought by the buyer.

(2) Goods to be merchantable must be at least 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 (§ 2-316) other implied warranties may arise from course of dealing or usage of trade.

(4) Subsections (1) and (2) of this section apply to a lease of goods and a bailment for hire of goods that pass through the physical possession of and are maintained by the lessor, sublessor, or bailor.

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