## 554.2314 Implied warranty: merchantability — usage of trade.

- 1. Unless excluded or modified (section 554.2316), 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 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 (section 554.2316) other implied warranties may arise from course of dealing or usage of trade.

 $[C24, 27, 31, 35, 39, \S{\bf 9944}; C46, 50, 54, 58, 62, \S{\bf 554}.16; C66, 71, 73, 75, 77, 79, 81, \S{\bf 554}.2314]$  Referred to in  $\S{\bf 554}$ .1