

**Cherokee Nation Code Annotated**  
**Title 80: Uniform Commercial Code**  
**Article 2: Sales**  
**Part 3. General Obligation and Construction of Contract**  
**§ 2–314. Implied warranty: merchantability; usage of trade**  
Cite as: 80 CNCA § 2-314

Implied Warranty: Merchantability—Usage of Trade

(1) Unless excluded or modified (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 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 promise or affirmations of fact made on the container or label if any.

(3) Unless excluded or modified (Section 2–316) other implied warranties may arise from course of dealing or usage of trade.

Historical Data

LA 26–03, eff. October 2, 2003.