

**3211 IMPLIED WARRANTY: NOTICE OF BREACH**

A seller is not liable for a breach of warranty unless the buyer notifies the seller of the breach (defect) within a reasonable time after he or she discovers or should have discovered any breach. What is a reasonable time depends upon the nature of the act to be done, the nature of the contract, and the facts and circumstances of the transaction. The notice need not be in any particular form and it may be oral or written. It must, however, fairly inform the seller of a breach of warranty (defect).

**COMMENT**

The instruction and comment were originally published in 1971. The instruction was revised in 1992. The comment was updated in 1980 and 1992.

Wis. Stat. § 402.607(3)(a); It is no longer a requirement under § 402.607(3)(a) that the notice must inform the seller that the buyer looks to the seller for damages for the breach. Paulson v. Olson Implement Co., Inc., 107 Wis. 2d 510, N.W.2d 855 (1982). See also Wojciuk v. United States Rubber Co., 19 Wis.2d 224, 235(a), 120 N.W.2d 47 (1963); Kennedy-Ingalls Corp. v. Meissner, 11 Wis.2d 371, 384, 105 N.W.2d 696 (1960).

Wis. Stat. § 401.204 allows the seller to fix any time which is not manifestly unreasonable. For a discussion of the reasonableness of limits on warranties, see Takera v. Ford Motor Co., 86 Wis.2d 140, 271 N.W.2d 653 (1978).

In Samson v. Riesing, 62 Wis.2d 698, 215 N.W.2d 662 (1974), the court reaffirmed the holding in Tew v. Marg, 246 Wis. 245, 249, 16 N.W.2d 795 (1944), that implied warranties require the statutory notice of breach.