

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 359** Session of
1999

INTRODUCED BY ARMSTRONG, ROBBINS AND SLOCUM, FEBRUARY 8, 1999

SENATOR ARMSTRONG, LABOR AND INDUSTRY, AS AMENDED,
NOVEMBER 16, 1999

AN ACT

1 Establishing LIENS AND ownership rights in dies, molds and forms <—
2 used in fabrication of plastic parts under certain
3 conditions.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Die, Mold and
8 Form Forfeiture Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Customer." A person who causes a molder to fabricate, cast
14 or otherwise make a die, mold or form for use in the
15 manufacture, assembly or fabrication of a plastic product or a
16 person who causes a molder to use a die, mold or form to
17 manufacture, assemble or fabricate a plastic product.

18 "Molder." A person who fabricates, molds, casts or otherwise

1 makes a die, mold or form for use in the manufacture, assembly
2 or fabrication of a plastic product or a person who uses a die,
3 mold or form to manufacture, assemble or fabricate a plastic
4 product.

5 "Person." An individual, firm, partnership, association or
6 corporation.

7 Section 3. Transfer of rights.

8 Unless otherwise agreed in writing, if a customer does not
9 claim possession of a die, mold or form from the molder within
10 three years from the last use of the die, mold or form, all
11 rights, title and interest in the die, mold or form may, at the
12 option of the molder, be transferred by operation of law to the
13 molder for purposes of destroying the die, mold or form.

14 Section 4. Notice.

15 After the expiration of the three-year period set forth in
16 section 3, if a molder chooses to have all rights, title and
17 interest in a die, mold or form transferred to the molder by
18 operation of law, the molder shall send written notice by
19 registered mail, return receipt requested, to an address
20 designated in writing by the customer or if not so designated,
21 to the customer's last known address, indicating that the molder
22 intends to terminate the customer's rights, title and interest
23 in the die, mold or form by having all rights, title and
24 interest in the die, mold or form transferred to the molder by
25 operation of law under this act.

26 Section 5. Customer's rights.

27 If a customer does not claim possession of the die, mold or
28 form within 120 days after the date the molder receives the
29 return receipt of the notice sent pursuant to section 4 or does
30 not make other arrangements with the molder for storage of the

1 die, mold or form within the time limit established in this
2 section, all rights, title and interest of the customer in the
3 die, mold or form shall be transferred by operation of law to
4 the molder for purposes of destroying the die, mold or form.
5 This section shall not be construed to affect a right of a
6 customer under Federal patent or copyright law, or any Federal
7 or State law pertaining to unfair competition.

8 Section 6. Waiting period retroactive.

9 The three-year waiting period provided in section 3 shall
10 apply retroactively in the case of a die, mold or form in the
11 possession of a molder on the effective date of this section.

12 SECTION 7. LIENS.

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13 (A) LIEN; POSSESSION.--MOLDERS SHALL HAVE A LIEN, DEPENDENT
14 ON POSSESSION, ON ALL DIES, MOLDS OR FORMS IN THEIR HANDS
15 BELONGING TO A CUSTOMER, FOR THE BALANCE DUE THEM FROM SUCH
16 CUSTOMER FOR ANY MANUFACTURING OR FABRICATION WORK, AND IN THE
17 VALUE OF ALL MATERIAL RELATED TO SUCH WORK. THE MOLDER MAY
18 RETAIN POSSESSION OF THE DIE, MOLD OR FORM UNTIL THE CHARGES ARE
19 PAID.

20 (B) NOTICE.--BEFORE ENFORCING SUCH LIEN, NOTICE IN WRITING
21 SHALL BE GIVEN TO THE CUSTOMER, WHETHER DELIVERED PERSONALLY OR
22 SENT BY REGISTERED MAIL TO THE LAST KNOWN ADDRESS OF THE
23 CUSTOMER. THIS NOTICE SHALL STATE THAT A LIEN IS CLAIMED FOR THE
24 DAMAGES SET FORTH IN OR ATTACHED TO SUCH WRITING FOR
25 MANUFACTURING OR FABRICATION WORK CONTRACTED OR PERFORMED FOR
26 THE CUSTOMER. THIS NOTICE SHALL ALSO INCLUDE A DEMAND FOR
27 PAYMENT.

28 (C) SALE.--IF THE MOLDER HAS NOT BEEN PAID THE AMOUNT DUE
29 WITHIN 60 DAYS AFTER THE NOTICE HAS BEEN RECEIVED BY THE
30 CUSTOMER AS PROVIDED IN SUBSECTION (B), THE MOLDER MAY SELL THE

1 DIE, MOLD OR FORM AT A PUBLIC AUCTION.

2 SECTION 8. NOTICE OF SALE.

3 (A) NOTICE REQUIREMENTS.--BEFORE A MOLDER MAY SELL THE DIE,
4 MOLD OR FORM, THE MOLDER SHALL NOTIFY THE CUSTOMER BY REGISTERED
5 MAIL, RETURN RECEIPT REQUESTED. THE NOTICE SHALL INCLUDE THE
6 FOLLOWING INFORMATION:

7 (1) THE MOLDER'S INTENTION TO SELL THE DIE, MOLD OR FORM
8 30 DAYS AFTER THE CUSTOMER'S RECEIPT OF THE NOTICE.

9 (2) A DESCRIPTION OF THE DIE, MOLD OR FORM TO BE SOLD.

10 (3) THE TIME AND PLACE OF THE SALE.

11 (4) AN ITEMIZED STATEMENT FOR THE AMOUNT DUE.

12 (B) PUBLISHING NOTICE.--IF THERE IS NOT A RETURN OF THE
13 RECEIPT OF THE MAILING OR IF THE POSTAL SERVICE RETURNS THE
14 NOTICE AS BEING NONDELIVERABLE, THE MOLDER SHALL PUBLISH NOTICE
15 OF THE MOLDER'S INTENTION TO SELL THE DIE, MOLD OR FORM IN A
16 NEWSPAPER OF GENERAL CIRCULATION IN THE CUSTOMER'S LAST KNOWN
17 PLACE OF BUSINESS. THE NOTICE SHALL INCLUDE A DESCRIPTION OF THE
18 DIE, MOLD OR FORM.

19 (C) EXCESS.--IF THE SALE IS FOR A SUM GREATER THAN THE
20 AMOUNT OF THE LIEN, THE EXCESS SHALL BE PAID TO ANY PRIOR
21 LIENHOLDER KNOWN TO THE MOLDER AT THE TIME OF THE SALE AND ANY
22 REMAINDER TO THE CUSTOMER, IF THE CUSTOMER'S ADDRESS IS KNOWN,
23 OR THE STATE TREASURER FOR DEPOSIT IN THE GENERAL FUND IF THE
24 CUSTOMER'S ADDRESS IS UNKNOWN TO THE MOLDER AT THE TIME OF THE
25 SALE.

26 (D) SALE PROHIBITED.--A SALE SHALL NOT BE MADE UNDER THIS
27 ACT IF IT WOULD BE IN VIOLATION OF ANY RIGHT OF A CUSTOMER UNDER
28 FEDERAL PATENT OR COPYRIGHT LAW.

29 Section 7 9. Exceptions.

30 This act shall not apply if a molder retains title to and

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1 possession of a die, mold or form. This act shall not be
2 construed to grant a customer rights, title or interest in a
3 die, mold or form.

4 Section 8 10. Effective date.

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5 This act shall take effect immediately.