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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 359      Session of  
1999

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

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AS AMENDED ON THIRD CONSIDERATION, DECEMBER 7, 1999

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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.

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, RETURN RECEIPT REQUESTED, to the last <—  
23 known address of the customer. This notice shall state that a  
24 lien is claimed for the damages set forth in or attached to such  
25 writing for manufacturing or fabrication work contracted or  
26 performed for the customer. This notice shall also include a  
27 demand for 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~~ MOLDER HAS RECEIVED THE RETURN RECEIPT <—

1 OF THE NOTICE SENT UNDER subsection (b), the molder may sell the  
2 die, mold or form at a public auction.

3 Section 8. Notice of sale.

4 (a) Notice requirements.--Before a molder may sell the die,  
5 mold or form, the molder shall notify the customer by registered  
6 mail, return receipt requested. The notice shall include the  
7 following information:

8 (1) The molder's intention to sell the die, mold or form  
9 30 days after the customer's receipt of the notice.

10 (2) A description of the die, mold or form to be sold.

11 (3) The time and place of the sale.

12 (4) An itemized statement for the amount due.

13 (b) Publishing notice.--If there is not a return of the  
14 receipt of the mailing or if the postal service returns the  
15 notice as being nondeliverable, the molder shall publish notice  
16 of the molder's intention to sell the die, mold or form in a  
17 newspaper of general circulation in the customer's last known  
18 place of business. The notice shall include a description of the  
19 die, mold or form.

20 (c) Excess.--If the sale is for a sum greater than the  
21 amount of the lien, the excess shall be paid to any prior  
22 lienholder known to the molder at the time of the sale and any  
23 remainder to the customer, if the customer's address is known,  
24 or the State Treasurer for deposit in the General Fund if the  
25 customer's address is unknown to the molder at the time of the  
26 sale.

27 (d) Sale prohibited.--A sale shall not be made under this  
28 act if it would be in violation of any right of a customer under  
29 Federal patent or copyright law.

30 Section 9. Exceptions.

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

5       Section 10.   Effective date.

6       This act shall take effect immediately.