

No. 2001-78

AN ACT

SB 419

Establishing liens and ownership rights in dies, molds and forms used in fabrication of plastic parts under certain conditions.

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

Section 1. Short title.

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

Section 2. Definitions.

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

“Customer.” A person who causes a molder to fabricate, cast or otherwise make a die, mold or form for use in the manufacture, assembly or fabrication of a plastic product or a person who causes a molder to use a die, mold or form to manufacture, assemble or fabricate a plastic product.

“Molder.” A person who fabricates, molds, casts or otherwise makes a die, mold or form for use in the manufacture, assembly or fabrication of a plastic product or a person who uses a die, mold or form to manufacture, assemble or fabricate a plastic product.

“Person.” An individual, firm, partnership, association or corporation.

Section 3. Transfer of rights.

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

Section 4. Notice.

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

Section 5. Customer's rights.

If a customer does not claim possession of the die, mold or form within 120 days after the date the molder receives the return receipt of the notice

sent pursuant to section 4 or does not make other arrangements with the molder for storage of the die, mold or form within the time limit established in this section, all rights, title and interest of the customer in the die, mold or form shall be transferred by operation of law to the molder for purposes of destroying the die, mold or form. This section shall not be construed to affect a right of a customer under Federal patent or copyright law or any Federal or State law pertaining to unfair competition.

Section 6. Waiting period retroactive.

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

Section 7. Liens.

(a) **Lien; possession.**—Molders shall have a lien, dependent on possession, on all dies, molds or forms in their hands belonging to a customer for the balance due them from such customer for any manufacturing or fabrication work and in the value of all material related to such work. The molder may retain possession of the die, mold or form until the charges are paid.

(b) **Notice.**—Before enforcing such lien, notice in writing shall be given to the customer, whether delivered personally or sent by registered mail, return receipt requested, to the last known address of the customer. This notice shall state that a lien is claimed for the damages set forth in or attached to such writing for manufacturing or fabrication work contracted or performed for the customer. This notice shall also include a demand for payment.

(c) **Sale.**—If the molder has not been paid the amount due within 60 days after the molder has received the return receipt of the notice sent under subsection (b), the molder may sell the die, mold or form at a public auction.

Section 8. Notice of sale.

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

- (1) The molder's intention to sell the die, mold or form 30 days after the customer's receipt of the notice.
- (2) A description of the die, mold or form to be sold.
- (3) The time and place of the sale.
- (4) An itemized statement for the amount due.

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

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

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

Section 9. Exceptions.

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

Section 10. Effective date.

This act shall take effect immediately.

APPROVED—The 24th day of October, A.D. 2001.

MARK S. SCHWEIKER