

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 647

Short Title: Mold Lien and Mold Retention Act.

(Public)

Sponsors: Representatives Brawley; and Lemmond.

Referred to: Judiciary II.

March 29, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR LIEN RIGHTS FOR PERSONS WHO FABRICATE PRODUCTS FROM DIES, MOLDS, FORMS, OR PATTERNS, AND TO LIMIT MOLDERS' OBLIGATIONS TO RETAIN DIES, MOLDS, FORMS, OR PATTERNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-2 is amended by adding a new subsection to read:

"(g) Any person who fabricates, casts, or otherwise makes a die, mold, form, or pattern, or who uses a die, mold, form, or pattern to manufacture, assemble, or otherwise make a product pursuant to an express or implied contract with the owner of such die, mold, form, or pattern shall have a lien upon such die, mold, form, or pattern. The amount of the lien shall be for the entire unpaid contracted charges due from the owner for all products made with the die, mold, form, or pattern and for making the die, mold, form, or pattern. This lien shall have priority over any security interest in the die, mold, form, or pattern which is perfected at the time the person acquires this lien."

Sec. 2. Article 13 of Chapter 66 of the General Statutes is amended by adding a new section to read:

§ 66-67.3. Disposal of dies, molds, forms, and patterns.

(a) For purposes of this section:

(1) 'Customer' means any person:

a. Who causes or caused a molder to fabricate, cast, or otherwise make a die, mold, form, or pattern; or

b. Who causes or caused a molder to use a die, mold, form, or pattern to manufacture, assemble, or otherwise make a product;

- 1 (2) 'Molder' means any person, including, but not limited to, a tool or die
2 maker:
3 a. Who fabricates, casts, or otherwise makes a die, mold, form, or
4 pattern; or
5 b. Who uses a die, mold, form, or pattern to manufacture,
6 assemble, or otherwise make a product;
7 (3) 'Within three years following the last prior use' includes any period
8 following the last prior use of any die, mold, form, or pattern
9 regardless of whether or not that period precedes the effective date of
10 this section.
11 (b) In the absence of any agreement to the contrary, the customer shall have all
12 rights, title, and interest to any die, mold, form, or pattern in the possession of the
13 molder.
14 (c) Unless otherwise agreed in writing, if a customer does not claim possession
15 from a molder of a die, mold, form, or pattern within three years following the last prior
16 use thereof, all rights, title, and interest to any die, mold, form, or pattern may be
17 transferred by operation of law to the molder for the purpose of destroying or otherwise
18 disposing of such die, mold, form, or pattern, consistent with this section.
19 (d) If a molder chooses to have all rights, title, and interest to any die, mold,
20 form, or pattern transferred to the molder by operation of law, the molder shall send
21 written notice by registered mail, return receipt requested, to its customer at the
22 customer's last known address, indicating that the molder intends to terminate the
23 customer's rights, title, and interest by having all such rights, title, and interest
24 transferred to the molder by operation of law pursuant to this section; provided,
25 however, that if the customer designates in writing an address to which the written
26 notice must be sent, the molder must send the notice to such address.
27 (e) Unless within 30 days following the date the molder receives
28 acknowledgement or nonacknowledgement of the return receipt of such notice, a
29 customer takes possession of the particular die, mold, form, or pattern, or makes other
30 contractual arrangements with the molder for taking possession or for the storage
31 thereof, all rights, title, and interest of the customer shall transfer by law to the molder.
32 Thereafter, the molder may destroy or otherwise dispose of the particular die, mold,
33 form, or pattern as the molder's own property without any risk of liability to the
34 customer, except that this section shall not be construed in any manner to affect any
35 right of the customer, under federal patent or copyright law or any state or federal law
36 pertaining to unfair competition."

37 Sec. 3. This act is effective upon ratification.