

HOUSE BILL REPORT

SB 6286

As Reported By House Committee On:

Commerce & Labor

Title: An act relating to rights to dies, molds, forms, and patterns.

Brief Description: Conferring possessory and lien rights to entities that used dies, molds, forms, and patterns unclaimed.

Sponsors: Senators Pelz, Deccio, Heavey and Hale.

Brief History:

Committee Activity:

Commerce & Labor: 2/14/96, 2/22/96 [DPA].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 12 members: Representatives McMorris, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cairnes; Cody; Cole; Fuhrman; Goldsmith; Horn and Lisk.

Staff: Pam Madson (786-7166).

Background: Custom plastic molds are used to produce plastic products such as computer shells and telephone sets. To produce these products, an owner of a mold takes the mold to a fabricator, or has a fabricator make a mold and the fabricator injects the plastic into the mold to produce the plastic product.

The mold may be used by the fabricator but may not be owned by the fabricator. A fabricator may be left with physical possession of a mold he or she does not own after the mold is no longer used for production.

In a different circumstance, a fabricator may release the mold or products made from the mold to the owner prior to receiving payment for the mold or the plastic products, leaving a sum owing to the fabricator.

Summary of Amended Bill: Mold makers and fabricators may obtain ownership of molds that are no longer used for production. If the owner of a mold does not claim possession of the mold within three years after the mold was last used, the molder

may seek title to the mold. The molder must send notice of intent to seek title to the customer by registered or certified mail. If the customer does not respond within 120 days after notice was sent, the title and right to the mold transfers from the customer to the molder.

A possessory lien is established for a fabricator who has possession of a mold and who has not been paid for the work performed and the materials used in production of a product. The fabricator may keep possession of the mold until the sum is paid by the customer. This lien does not have priority over a security interest that is perfected at the time the possessory lien attaches. To enforce the lien, the fabricator must first give notice to the customer of his or her intent to sell the mold. If payment is not received within 60 days after the customer receives notice of intent to sell, the fabricator may sell the mold and recover the amount owing plus costs of holding and selling the mold and reasonable attorneys' fees. Any excess sale proceeds are paid to other lien holders. A fabricator may not sell a mold if it violates a customer's right under federal patent or copyright law.

Amended Bill Compared to Original Bill: A possessory lien created in dies, molds, forms, or patterns does not have priority over a security interest that is perfected when the possessory lien right attaches to the mold.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: When a mold used in making plastic components is no longer needed, the molder ends up storing the mold, sometimes for many years. The owner of the mold cannot be located. A mold can be expensive and could result in some liability to the molder if a mold is destroyed and the owner returns to claim it. Molders need a process to allow for the molds to be scrapped when they are no longer useful. The owner of a mold may have parts made by a molder, and then the owner decides to take the mold back and have a molder somewhere else use the mold to produce parts. The original molder may not get paid for the parts already made. A possessory lien would help ensure that payment is made for the plastic products.

Testimony Against: None.

Testified: (In favor) Mark Greenberg, American Plastics Council; and John Fleck.