

## AN ACT

ENTITLED, An Act to provide a process for a manufacturer to place a lien on or dispose of a die, mold, form, or pattern.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. Terms used in this Act mean:

- (1) "Customer," any person who causes a manufacturer to fabricate, cast, or otherwise make a die, mold, form, or pattern or who provides a manufacturer with a die, mold, form, or pattern to manufacture, assemble, cast, or fabricate a product for a customer;
- (2) "Manufacturer," any person who fabricates, casts, or otherwise makes or uses a die, mold, form, or pattern for the purpose of manufacturing, assembling, casting, or fabricating a product for a customer including a tool or die maker;

Section 2. In the absence of any agreement to the contrary, the customer has all rights and title to any die, mold, form, or pattern in the possession of the manufacturer. If a customer does not claim possession from a manufacturer of a die, mold, form, or pattern within three years following the last use of the die, mold, form, or pattern, all rights and title to any die, mold, form, or pattern is transferred to the manufacturer for the purpose of destroying or otherwise disposing of the die, mold, form, or pattern.

Section 3. At anytime within the time frame provided for in section 2 of this Act, a manufacturer may choose to have all rights and title to any die, mold, form, or pattern transferred to the manufacturer. The manufacturer shall send written notice by registered mail to the chief executive office of the customer or, if the customer is not a business entity, to the customer at the customer's last known address indicating that the manufacturer intends to terminate the customer's rights and title by having all the rights and title transferred to the manufacturer pursuant to this Act. The notice shall include a statement of the customer's rights as set forth in section 4 of this Act.

Section 4. If a customer does not respond in person or by mail to claim possession of the

particular die, mold, form, or pattern within ninety days following the date the notice was sent, or does not make other contractual arrangements with the manufacturer for storage of the die, mold, form, or pattern, all rights and title of the customer, except patents and copyrights, shall transfer to the manufacturer. The manufacturer may then destroy or otherwise dispose of the particular die, mold, form, or pattern as the manufacturer's own property without any liability to the customer.

This section may not be construed in any manner to affect any right of the customer under federal patent or copyright law or federal law pertaining to unfair competition.

Section 5. A manufacturer has a lien, dependent on possession, on any die, mold, form, or pattern in the manufacturer's possession belonging to a customer, for the balance due the manufacturer from such customer for any manufacturing or fabrication work, and in the value of all material related to the work. The manufacturer may retain possession of the die, mold, form, or pattern until the charges are paid.

Section 6. Before enforcing any lien, notice in writing shall be given to the customer, whether delivered personally or sent by registered mail to the last-known address of the customer. The notice shall state that a lien is claimed for the damages set forth in writing for manufacturing or fabrication work contracted or performed for the customer. This notice shall also include a demand for payment.

Section 7. No sale may be made pursuant to this Act if the sale would be in violation of any right of a customer under federal patent or copyright law.

An Act to provide a process for a manufacturer to place a lien on or dispose of a die, mold, form, or pattern.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1251

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1251  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_ ,

19\_\_ at \_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 19\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 19\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State