

SECOND REGULAR SESSION

SENATE BILL NO. 762

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUSSELL

Pre-filed January 3, 2000, and 1,000 copies ordered printed.

2814L.01I

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 137.075, 430.400, 430.403, 430.405 and 430.407, RSMo 1994, relating to fabricators and stampers, and to enact in lieu thereof six new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 137.075, 430.400, 430.403, 430.405 and 430.407, RSMo 1994, are repealed and six new sections enacted in lieu thereof, to be known as sections 137.075, 430.400, 430.403, 430.405, 430.407 and 430.409, to read as follows:

137.075. Every person owning or holding real property or tangible personal property on the first day of January, including all such property purchased on that day, shall be liable for taxes thereon during the same calendar year; **except that, no fabricator or stamper, as defined in subdivision (2) of section 430.400, RSMo, holding stamping dies, die casting molds, injecting molds, fixtures or specialized equipment used in the manufacturing or assembling by stampers, fabricators or die casters pursuant to a contract with a customer, as defined in subdivision (1) of section 430.400, RSMo, shall be liable for tax thereon for any calendar year beginning before the transfer of right, title and interest to the fabricator or stamper pursuant to section 430.409, RSMo.**

430.400. As used in sections 430.400 to [430.407] **430.409**, the following terms mean:

(1) "Customer", any individual or entity who causes a [plastic] fabricator **or stamper** to fabricate, cast or otherwise make a die, mold, form, or pattern; or who causes a [plastic] fabricator **or stamper** to use a die, mold, form or pattern to manufacture, assemble, or otherwise make a

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

plastic product;

(2) "[Plastic] Fabricator" **or "stamper"**, any individual or entity who fabricates, **forms, stamps** 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 [plastic] product.

430.403. Every [plastic] fabricator **or stamper** shall have a lien dependent on possession on any die, mold, form or pattern in his **or her** possession belonging to the customer for the amount due from such customer for [plastic] fabrication **or stamping** work performed upon the die, mold, form or pattern. A [plastic] fabricator **or stamper** may retain possession of the die, mold, form or pattern until such amount due is paid or until such time as the customer has posted with the clerk of the circuit court of the county in which the mold is located a bond in an amount equal to the amount in dispute. Such lien shall have priority over any other unperfected security interest or right in or to the mold, die, form or pattern.

430.405. In any suit to enforce a lien [under] **pursuant to** sections 430.400 to [430.407] **430.409**, the customer may be allowed to pay into court the amount claimed by the lienor, and such additional amount, to cover interest and costs, as the court may direct. In the alternative the customer may file a written undertaking, with two or more securities, to be approved by the court, to the effect that he **or she** will pay any judgment that may be recovered, together with costs, and on the payment of such money into the court, or the approval of such undertaking, the court shall order possession of the mold to be returned to the customer, and any money so paid shall be subject to the final decree of the court. In the event that a counterclaim is filed in any action described in sections 430.400 to 430.407 and that counterclaim is related to the work performed by the lienor, then the lienor shall be subject to the provisions of this section before any lien [under] **pursuant to** sections 430.400 to 430.407 can be enforced.

430.407. 1. If the sale is for a sum greater than the amount of the lien, any excess shall be paid to the customer and any prior lienholder. In the event that the proceeds of the sale are insufficient to satisfy the lien, the [plastic] fabricator **or stamper** shall be entitled to a personal judgment for the deficiency against the customer.

2. No sale shall be made [under] **pursuant to** sections 430.400 to [430.407] **430.409** if it would be in violation of any right of a customer [under] **pursuant to** federal patent or copyright law, but the judge may order the customer to fully satisfy his **or her** indebtedness to the [plastic] fabricator **or stamper** prior to release of the mold to the customer.

430.409. 1. In the event that all liens or judgments described in sections 430.400 to 430.407 have been paid in full or satisfied such that the customer owns all right, title and interest in the die, mold, form or pattern in question, then the customer shall have the right to take possession of such die, mold, form or pattern. The customer shall take possession of such die, mold, form or pattern from the fabricator or stamper within three years of either the date of the last prior use of such mold or the date on which the

customer became the sole owner of all right, title and interest in such die, mold, form or pattern, whichever later occurs. Unless otherwise agreed in writing, if the customer fails to take possession within such period, then the fabricator or stamper may transfer to himself or herself all right, title and interest in such die, mold, form or pattern for the sole purpose of destroying or reforming such die, mold, form or pattern; provided that, the fabricator or stamper follows the procedures described in this section for such transfer.

2. In order to transfer such right, title and interest, the fabricator or stamper shall:

(1) Send written notice, by registered mail, return receipt requested, to the customer at all of the following:

(a) The address listed in any agreement by which the fabricator or stamper manufactured or obtained possession of such die, mold, form or pattern;

(b) Any address the customer designates in writing for the sending of such notice; and

(c) The last known address of the customer;

(2) Indicate in such notice that the fabricator or stamper intends to terminate all of the customer's right, title and interest in such die, mold, form or pattern and transfer such right, title and interest to the fabricator or stamper pursuant to this section; and

(3) Indicate in such notice that the customer has one hundred twenty days from the date the fabricator or stamper receives acknowledgement or nonacknowledgement of the return receipt of such notice to either:

(a) Make contractual arrangements with the fabricator or stamper for taking possession or storage of such die, mold, form or pattern; or

(b) Take possession of such die, mold, form or pattern.

3. If the fabricator or stamper sends proper notice pursuant to subsection 2 of this section, and the customer fails to take possession or make the proper arrangements pursuant to subdivision (3) of subsection 2 of this section, then all right, title, interest in such die, mold, form or pattern shall transfer to the fabricator or stamper on the day after the expiration of the one hundred twenty-day-period described in subdivision (3) of subsection 2 of this section. Upon the transfer of title, right and interest in such die, mold, form or pattern to the fabricator or stamper, the fabricator or stamper may destroy such die, mold, form or pattern, or may form such die, mold, form or pattern as the fabricator's or stamper's own property, without any risk of liability to the customer; except that, this section shall not be construed in any manner to affect the right of the customer pursuant to federal patent or copyright law, or pursuant to any state or federal law pertaining to unfair competition.

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Unofficial

Bill

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