



SPONSOR: Rep. Smyk & Sen. Lawson  
Sens. Ennis, Wilson

HOUSE OF REPRESENTATIVES  
150th GENERAL ASSEMBLY

HOUSE BILL NO. 292

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO ARREST FOR VIOLATION -  
LIQUIFIED PETROLEUM GAS CONTAINER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 7204, Title 16 of the Delaware Code by making deletions as shown by strike through and  
2     insertions as shown by underline as follows:

3           § 7204. ~~Arrest for violation.~~

4           ~~If any person or the president, secretary, treasurer or other officer of any corporation mentioned in § 7201 of this~~  
5     ~~chapter, or the person's duly authorized agent, who has personal knowledge of the facts, makes oath in writing before any~~  
6     ~~justice of the peace that the party making such affidavit believes that any of that party's liquefied petroleum gas containers~~  
7     ~~marked with the name, initials, mark or any other device of the owner are in the possession of or being used by or being~~  
8     ~~filled or refilled by any person who is not the owner or agent of the owner and who is in the possession of filling or refilling~~  
9     ~~or using any such containers without the written consent of the owner of the name, initials or trademark, the justice of the~~  
10    ~~peace, when satisfied that there is probable cause, may issue a warrant and cause the person designated to be brought into~~  
11    ~~court for the purpose of discovering and obtaining the container, and if the justice of the peace finds that the person has~~  
12    ~~been guilty of a violation of § 7202 of this chapter, the justice may impose the punishment herein prescribed and the justice~~  
13    ~~shall also award the possession of property acquired by such warrant to the owner thereof.~~

SYNOPSIS

This amendment repeals Title 16 § 7204 in its entirety. This particular section prescribes a practice that is typically unused and handled through a traditional warrant process by charging a previous section of this chapter brought by a law enforcement officer. Additionally, the act of recovering a container possessed by someone other than the owner is more appropriately handled through the civil replevin process.