



SPONSOR: Rep. Smyk & Rep. Carson & Rep. Cooke & Sen. Ennis
Reps. Brady, Gray, Ramone; Sens. Gay, Wilson

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 56

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.