SPONSOR: Rep. Atkins & Rep. Mitchell & Rep. Schwartzkopf
Reps. Bennett, Briggs King, Carson, Hudson, Jaques, J. Johnson, Lee, Miro, Ramone, Scott, B. Short, Walls, Wilson; Sens. Ennis, Katz

HOUSE OF REPRESENTATIVES
145th GENERAL ASSEMBLY

HOUSE BILL NO. 322

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SPECIFIC OFFENSES.

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

Section 1. Amend §1257 (a) , Title 11 of the Delaware Code by substituting the words “peace officer” in lieu of the words “police officer” wherever the same appear in paragraph (1) through (3) of the subsection.

SYNOPSIS

This Act corrects a loop-hole in Delaware’s felony resisting arrest statute identified by the Delaware Supreme Court’s recent opinion in Watson v. State, No. 335, 2009 (January 6, 2010). In Watson, two probation and parole officers were injured by a defendant while trying to make an arrest for a probation violation. On appeal, the Delaware Supreme Court reversed Watson’s convictions for the felony offense of resisting arrest by force or violence under §1257(a) because the statute, by its express terms, only applies to arrests by police officers. Instead, the Delaware Supreme Court directed that convictions for the misdemeanor crime of resisting arrest under §1257(b), which applies to arrests by all peace officers, be entered against Watson. The General Assembly believes that the use of force or violence against any peace officer attempting to make an arrest is an extremely serious offense and is, therefore, enacting this legislation to close the loop-hole identified by our Supreme Court.

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