

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 561

Short Title: Company Police Act.

(Public)

Sponsors: Representative Redwine.

Referred to: Judiciary II.

April 1, 1991

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE MINIMUM STANDARDS, DUTIES, AND
RESPONSIBILITIES OF COMPANY POLICE OFFICERS AND COMPANY
POLICE AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to
read:

"CHAPTER 74E.
"COMPANY POLICE ACT.

"§ 74E-1. Title.

This act may be cited as the 'Company Police Act'. The purpose of this act is to ensure a minimum level of integrity, proficiency, and competence among company police officers and agencies.

"§ 74E-2. Policy and scope.

(a) The General Assembly finds that there is a need for a Company Police Program. In recognition of this need the Attorney General shall be empowered to certify agencies as company police agencies and to commission officers as company police officers who shall be authorized to enforce the laws of the State of North Carolina subject to the provisions of this Chapter and such other provisions of law as may be applicable.

(b) Any educational institution or hospital, whether public or private, or any State institution, public utility company, incorporated security patrol, or other corporation engaged in providing on-site company police security personnel services for persons or property may apply to the Attorney General for company police agency status.

1 Certified company police agencies may apply to the Attorney General to commission
2 such other persons as the institution, corporation, or company may designate to act as
3 policeman for it. The Attorney General, upon such application, may appoint such
4 persons or so many of them he may deem proper and qualified to be such policemen,
5 and shall issue to the persons so appointed a commission to act as such policemen.

6 **"§ 74E-3. Certificate of liability insurance.**

7 (a) No nonpublic entity shall be certified under this Chapter without first filing
8 with the Attorney General evidence of a liability insurance policy. The policy must
9 provide not less than one million dollars (\$1,000,000) of coverage per incident for
10 personal injury or property damage which results from the intentional or negligent act or
11 acts of the principal agency or any of its agents or employees operating in the course
12 and scope of his or her agency or under color of law. The liability policy shall be
13 subject to approval by the Attorney General as to form, execution, and terms therein.

14 (b) An insurance carrier issuing a liability insurance policy for the purpose of this
15 Chapter shall have the right to cancel such policy upon giving 30 days' written notice to
16 both the principal agency and to the Attorney General. Such written notice must be
17 given by certified mail, return receipt requested. Such cancellation shall not affect any
18 liability on the policy which accrued prior to the effective cancellation date.

19 (c) Every nonpublic certified agency shall, at all times, maintain on file with the
20 Attorney General the certificate of insurance required by this Chapter in full force and
21 effect and upon failure to do so, the certification of such agency shall be automatically
22 suspended and shall not be reinstated until an application therefore, in the form
23 prescribed by the Attorney General, is filed together with the proper insurance
24 certificate.

25 (d) The suspension of an agency's certification pursuant to the provisions of this
26 section or any other provision of this Chapter or any rule promulgated by the Attorney
27 General, shall result in the automatic and immediate suspension of the commission of
28 each and every company police officer employed by such agency.

29 **"§ 74E-4. Powers of Attorney General.**

30 In addition to the powers conferred upon the Attorney General elsewhere in this
31 Chapter, the Attorney General shall have the power to:

- 32 (1) Promulgate rules necessary or proper to carry out and to administer the
33 provisions of this Chapter including the authority to require the
34 submission of reports or information by certified employing agencies
35 and individual commissioned officers;
- 36 (2) Determine minimum qualifications, establish and require written or
37 oral examinations, and establish minimum education, experience and
38 training standards for applicants and commissioned officers and
39 certified agencies under this Chapter;
- 40 (3) Conduct investigations regarding alleged violations and to make
41 evaluations as may be necessary to determine if the employing
42 agencies and commissioned officers are complying with the provisions
43 of this Chapter;
- 44 (4) Approve individual and agency applications;

- 1 (5) Issue letters of reprimand and deny, suspend, or revoke any
2 certification or commission issued, or to be issued, under this Chapter
3 to any agency or individual who fails to satisfy or violates the
4 requirements of this Chapter or the rules promulgated pursuant thereto.
5 Any denial, suspension, or revocation shall be in accordance with
6 Chapter 150B of the General Statutes of North Carolina;
- 7 (6) Delegate such authority as deemed appropriate to carry out the
8 provisions of this Chapter and such rules as may be promulgated
9 hereunder;
- 10 (7) Inspect records maintained by certified company police agencies; and
11 (8) Appear in the name of the Company Police Program and apply to the
12 courts having jurisdiction for injunctions to prevent violations of this
13 Chapter or the rules promulgated pursuant thereto.

14 **"§ 74E-5. Records.**

15 (a) The Attorney General may require that the Criminal Justice Standards
16 Division provide administrative support staff responsible for the administration and
17 operation of the Company Police Program.

18 (b) The Attorney General shall have legal custody of all books, papers,
19 documents, or other records and property of the Company Police Program.

20 (c) Any papers, documents, or other records which become the property of the
21 Company Police Program that are placed in the company police officers' personnel file
22 maintained by the Attorney General shall be subject to the same disclosure requirement
23 as set forth in Chapters 126, 153A and 160A of the General Statutes regarding the
24 privacy of personnel records.

25 (d) Notwithstanding the provisions of subsection (c) herein, the Attorney General
26 may disclose the contents of any records retained under the authority of this Chapter to
27 the Criminal Justice Education and Training Standards Commission, the Sheriff's
28 Education and Training Standards Commission or any Criminal Justice Agency for
29 certification or employment purposes.

30 **"§ 74E-6. Oaths, powers, and authority of company police officers.**

31 (a) Every company police officer so appointed shall, before entering upon the
32 duties of his office, take and subscribe an oath of office as required for law enforcement
33 officers. The chief, director of security or other senior operational supervisor must be a
34 commissioned company police officer empowered under this Chapter to enforce the
35 laws of this State.

36 (b) There shall be three distinct classifications of company police officers:

37 (1) Campus Police Officers - Those company police officers who are
38 employed by any college or university that is a constituent institution
39 of The University of North Carolina or any private college or
40 university that is licensed or exempted from licensure as prescribed by
41 G.S. 116-15.

42 (2) Railroad Police Officers - Those company police officers who are
43 employed by a certified rail carrier and commissioned as a police
44 officer under the provisions of this Chapter.

- 1 (3) Special Police Officers - All company police officers not designated as
2 a campus police officer or railroad police officer.
- 3 (c) Every company police officer, while in the performance of the duties of his
4 employment, shall severally possess all the powers of municipal and county police
5 officers to make arrests for both felonies and misdemeanors and to charge for
6 infractions:
- 7 (1) Upon property owned by or in the possession and control of their
8 respective employers; or
- 9 (2) Upon property owned by or in the possession and control of any
10 person or persons who shall have contracted with their employer or
11 employers to provide on-site company police security personnel
12 services for such property; or
- 13 (3) Upon any other premises while in continuous and immediate pursuit of
14 any person or persons for any offense committed upon property
15 referred to in subdivisions (1) and (2) above.
- 16 (d) Campus Police
- 17 (1) In addition to the power to make arrests contained in subsection (c)
18 above, campus police officers shall have the same authority upon that
19 portion of any public road or highway passing through or immediately
20 adjoining the property described in subsection (c) above, wherever
21 located.
- 22 (2) The board of trustees of any college or university which qualifies as a
23 campus police agency pursuant to this Chapter, may enter into mutual
24 aid agreements with the governing board of any municipality or county
25 (with the consent of the sheriff) to the same extent as municipal police
26 departments pursuant to Chapter 160A.
- 27 (e) Railroad Police
- 28 (1) In addition to the power to make arrests contained in subsection (c)
29 above, railroad police officers shall possess all of the powers and
30 authority as provided by federal law and rules and regulations as may
31 be promulgated by the United States Secretary of Transportation.
- 32 (2) Notwithstanding any of the provisions herein, the limitations on the
33 power to make arrests contained in subsection (c) above, shall not be
34 applicable to railroad police officers commissioned by the Attorney
35 General pursuant to the authority of this Chapter.
- 36 (f) Notwithstanding any of the provisions herein, the Board of Trustees of any
37 constituent institution of The University of North Carolina may elect to have its officers
38 certified under Chapter 17C of the General Statutes rather than requesting certification
39 as a company police agency and company police commissions pursuant to the
40 provisions of this Chapter.
- 41 **"§ 74E-7. Badges, uniforms, weapons, and vehicles.**
- 42 Company police agencies shall be responsible for ensuring that all employees,
43 whether or not commissioned, comply with the provisions of this Chapter and the rules
44 promulgated pursuant thereto, including but not limited to, those provisions pertaining

1 to the wearing of badges and uniforms, the carrying of weapons and the operation of
2 vehicles.

3 **"§ 74E-8. Minimum standards.**

4 Applicants and commissioned officers shall meet and maintain the same minimum
5 preemployment and in-service standards for State law enforcement officers as required
6 by the North Carolina Criminal Justice Education and Training Standards Commission,
7 and such other preemployment and in-service requirements as may be established and
8 required by the Attorney General.

9 **"§ 74E-9. Fees.**

10 The Attorney General is authorized to charge reasonable application, renewal, and
11 reinstatement fees as follows:

- 12 (1) A nonrefundable application or reinstatement fee for individual
13 company police officer commissions, not to exceed one hundred fifty
14 dollars (\$150.00).
15 (2) An initial and/or annual certification fee for each agency certified
16 under this Chapter, not to exceed two thousand dollars (\$2,000) per
17 annum or any portion thereof.
18 (3) A reinstatement fee for agencies whose certification is suspended
19 pursuant to the provisions of this Chapter, not to exceed one thousand
20 five hundred dollars (\$1,500).

21 **"§ 74E-10. Company Police Fund.**

22 (a) All monies collected by the Attorney General pursuant to this Chapter shall
23 be deposited forthwith in a special fund in the Office of the State Treasurer, which shall
24 be known as the Company Police Fund. The Attorney General will administer said
25 fund.

26 (b) Except as otherwise specifically provided by law, all receipts from
27 applications, renewals, and reinstatements of certifications and company police
28 commissions shall be deposited to the credit of the Company Police Fund and made
29 available to the Attorney General until expended subject to the provisions of this
30 section. These monies shall be invested by the State Treasurer in interest bearing
31 accounts as permitted by law, with such interest as may accrue being added to the
32 Company Police Fund. The Company Police Fund herein created shall be subject to the
33 provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes
34 of North Carolina as amended.

35 (c) All monies credited to the Company Police Fund shall be made available to
36 carry out the intent and purposes of this section in accordance with the plans approved
37 by the Attorney General, and all such funds are hereby appropriated, reserved, set aside,
38 and made available until expended, for the purpose of the enforcement and
39 administration of this Chapter.

40 **"§ 74E-11. Compensation of company police officers.**

41 The compensation of company police officers shall be paid by the agencies for
42 which the officers are respectively appointed, as may be agreed on between them.

43 **"§ 74E-12. Immediate termination of Agency certification and/or commission.**

- 44 (a) Agency certification.

- 1 (1) Unless sooner terminated, suspended, or revoked by the Attorney
2 General, a company police agency's certification shall expire on June
3 30 next following the date of issuance of such certification.
- 4 (2) Agencies desiring to renew their certification may do so upon the
5 payment of the appropriate fee and compliance with the provisions of
6 this Chapter and such rules as may be promulgated by the Attorney
7 General.
- 8 (3) No agency whose certification was denied or revoked for violation of
9 this Chapter or any rules promulgated thereunder is eligible to apply
10 again for that certification for three years.
- 11 (b) A company police officer's commission shall be automatically and
12 immediately revoked upon:
- 13 (1) Termination of employment with employing agency;
14 (2) Termination, suspension, or revocation of the employing agency's
15 certification;
- 16 (3) Failure to meet in-service training requirements as required by this
17 Chapter or the rules promulgated by the Attorney General; or
- 18 (4) Violation of this Chapter or any rules promulgated thereunder by the
19 Attorney General.
- 20 (c) No person whose company police officer's commission was revoked or
21 denied for violation of this Chapter or any rules promulgated thereunder shall be
22 eligible to apply for that commission for three years.

23 **"§ 74E-13. Immunity.**

24 Neither the Attorney General nor any of his employees may be held criminally or
25 civilly liable for any acts or omissions in carrying out the provisions of this Chapter or
26 for the acts or omissions of agencies or officers certified or commissioned under this
27 Chapter.

28 **"§ 74E-14. Penalties and enforcement.**

29 (a) No private person, firm, association, or corporation, and no public institution,
30 agency, or other entity shall engage in, perform any services as, or in any way hold
31 itself out as a company police agency or engage in the recruitment or hiring of company
32 police officers, without having first complied with the provisions of this Chapter.

33 (b) Any person, firm, association, or corporation, or their agents and employees
34 violating any of the provisions of this Chapter or knowingly violating any rule
35 promulgated to implement this Chapter shall be guilty of a misdemeanor and punishable
36 by a fine and imprisonment for a term not to exceed two years, or both, in the discretion
37 of the court. The Attorney General, or his representative, shall have concurrent
38 jurisdiction with the district attorneys of this State to prosecute violations of this
39 Chapter.

40 (c) The Company Police Program is authorized to apply in its own name to the
41 superior court for an injunction to prevent any violation or threatened violation of the
42 provisions of this Chapter, or any rules promulgated hereunder; and the superior courts
43 have jurisdiction to grant the requested relief, irrespective of whether or not criminal
44 prosecution has been instituted or administrative sanctions imposed by reasons of the

1 violation. The venue for actions brought under this subsection shall be in any county
2 selected by the Attorney General.

3 (d) Nothing contained in the provisions of this section shall have the effect of
4 relieving any such company or corporation from any civil liability for the acts of such
5 policemen, in exercising or attempting to exercise the powers conferred by this
6 Chapter."

7 Sec. 2. Chapter 74A of the General Statutes is repealed.

8 Sec. 3. This act is effective upon ratification.