

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 561
Committee Substitute Favorable 5/27/91

Short Title: Company Police Act.

(Public)

Sponsors:

Referred to:

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

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

7 **"§ 74E-3. Certificate of liability insurance.**

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

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

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

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

32 **"§ 74E-4. Powers of Attorney General.**

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

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

1 agencies and commissioned officers are complying with the provisions
2 of this Chapter;

3 (4) Approve individual and agency applications;

4 (5) Issue letters of reprimand and deny, suspend, or revoke any
5 certification or commission issued, or to be issued, under this Chapter
6 to any agency or individual who fails to satisfy or violates the
7 requirements of this Chapter or the rules promulgated pursuant thereto.
8 Any denial, suspension, or revocation shall be in accordance with
9 Chapter 150B of the General Statutes of North Carolina;

10 (6) Delegate such authority as deemed appropriate to carry out the
11 provisions of this Chapter and such rules as may be promulgated
12 hereunder;

13 (7) Inspect records maintained by certified company police agencies; and

14 (8) Appear in the name of the Company Police Program and apply to the
15 courts having jurisdiction for injunctions to prevent violations of this
16 Chapter or the rules promulgated pursuant thereto.

17 **"§ 74E-5. Records.**

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

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

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

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

33 **"§ 74E-6. Oaths, powers, and authority of company police officers.**

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

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

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

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

4 (3) Special Police Officers – All company police officers not designated
5 as a campus police officer or railroad police officer.

6 (c) Every company police officer, while in the performance of the duties of his
7 employment, shall severally possess all the powers of municipal and county police
8 officers to make arrests for both felonies and misdemeanors and to charge for
9 infractions:

10 (1) Upon property owned by or in the possession and control of their
11 respective employers; or

12 (2) Upon property owned by or in the possession and control of any
13 person or persons who shall have contracted with their employer or
14 employers to provide on-site company police security personnel
15 services for such property; or

16 (3) Upon any other premises while in continuous and immediate pursuit of
17 any person or persons for any offense committed upon property
18 referred to in subdivisions (1) and (2) above.

19 (d) Campus Police

20 (1) In addition to the power to make arrests contained in subsection (c)
21 above, campus police officers shall have the same authority upon that
22 portion of any public road or highway passing through or immediately
23 adjoining the property described in subsection (c) above, wherever
24 located.

25 (2) The board of trustees of any college or university which qualifies as a
26 campus police agency pursuant to this Chapter may enter into mutual
27 aid agreements with the governing board of any municipality or county
28 (with the consent of the sheriff) to the same extent as municipal police
29 departments pursuant to Chapter 160A.

30 (e) Railroad Police

31 (1) In addition to the power to make arrests contained in subsection (c)
32 above, railroad police officers shall possess all of the powers and
33 authority as provided by federal law and rules and regulations as may
34 be promulgated by the United States Secretary of Transportation.

35 (2) Notwithstanding any of the provisions of this Chapter, the limitations
36 on the power to make arrests contained in subsection (c) above, shall
37 not be applicable to railroad police officers commissioned by the
38 Attorney General pursuant to the authority of this Chapter.

39 (f) Notwithstanding any of the provisions of this Chapter, the Board of Trustees
40 of any constituent institution of The University of North Carolina may elect to have its
41 officers certified under Chapter 17C or Chapter 116 of the General Statutes rather than
42 requesting certification as a company police agency and company police commission
43 pursuant to the provisions of this Chapter.

1 (g) Notwithstanding any other provision of law, the authority granted to company
2 police officers shall be limited to the provisions of this Chapter.

3 **"§ 74E-7. Badges, uniforms, weapons, and vehicles.**

4 Company police agencies shall be responsible for ensuring that all employees,
5 whether or not commissioned, comply with the provisions of this Chapter and the rules
6 promulgated pursuant thereto, including but not limited to, those provisions pertaining
7 to the wearing of badges and uniforms, the carrying of weapons, and the operation of
8 vehicles.

9 **"§ 74E-8. Minimum standards.**

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

15 **"§ 74E-9. Fees.**

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

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

27 **"§ 74E-10. Company Police Fund.**

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

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

41 (c) All monies credited to the Company Police Fund shall be made available to
42 carry out the intent and purposes of this section in accordance with the plans approved
43 by the Attorney General, and all such funds are hereby appropriated, reserved, set aside,

1 and made available until expended, for the purpose of the enforcement and
2 administration of this Chapter.

3 **"§ 74E-11. Compensation of company police officers.**

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

6 **"§ 74E-12. Immediate termination of agency certification or officer commission.**

7 (a) Agency certification.

8 (1) Unless sooner terminated, suspended, or revoked by the Attorney
9 General, a company police agency's certification shall expire on June
10 30 next following the date of issuance of such certification.

11 (2) Agencies desiring to renew their certification may do so upon the
12 payment of the appropriate fee and compliance with the provisions of
13 this Chapter and such rules as may be promulgated by the Attorney
14 General.

15 (3) No agency whose certification was denied or revoked for violation of
16 this Chapter or any rules promulgated thereunder is eligible to apply
17 again for that certification for three years.

18 (b) A company police officer's commission shall be automatically and
19 immediately revoked upon:

20 (1) Termination of employment with employing agency;

21 (2) Termination, suspension, or revocation of the employing agency's
22 certification;

23 (3) Failure to meet in-service training requirements as required by this
24 Chapter or the rules promulgated by the Attorney General; or

25 (4) Violation of this Chapter or any rules promulgated thereunder by the
26 Attorney General.

27 (c) No person whose company police officer's commission was revoked or
28 denied for violation of this Chapter or any rules promulgated thereunder shall be
29 eligible to apply for that commission for three years.

30 **"§ 74E-13. Immunity.**

31 Neither the Attorney General nor any of his employees may be held criminally or
32 civily liable for any acts or omissions in carrying out the provisions of this Chapter or
33 for the acts or omissions of agencies or officers certified or commissioned under this
34 Chapter.

35 **"§ 74E-14. Penalties and enforcement.**

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

40 (b) Any person, firm, association, or corporation, or their agents and employees
41 violating any of the provisions of this Chapter or knowingly violating any rule
42 promulgated to implement this Chapter shall be guilty of a misdemeanor and punishable
43 by a fine and imprisonment for a term not to exceed two years, or both, in the discretion
44 of the court. The Attorney General, or his representative, shall have concurrent

1 jurisdiction with the district attorneys of this State to prosecute violations of this
2 Chapter.

3 (c) The Company Police Program is authorized to apply in its own name to the
4 superior court for an injunction to prevent any violation or threatened violation of the
5 provisions of this Chapter, or any rules promulgated hereunder; and the superior courts
6 have jurisdiction to grant the requested relief, irrespective of whether or not criminal
7 prosecution has been instituted or administrative sanctions imposed by reasons of the
8 violation. The venue for actions brought under this subsection shall be in any county
9 selected by the Attorney General.

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

14 Sec. 2. G.S. 14-401.6(a) reads as rewritten:

15 "(a) It is unlawful for any person, firm, corporation or association to possess, use,
16 store, sell, or transport within the State of North Carolina, any form of that type of gas
17 generally known as 'tear gas,' or any container or device for holding or releasing that
18 gas; except this section does not apply to the possession, use, storage, sale or
19 transportation of that gas or any container or device for holding or releasing that gas:

- 20 (1) By officers and enlisted personnel of the armed forces of the United
21 States or this State while in the discharge of their official duties and
22 acting under orders requiring them to carry arms or weapons;
- 23 (2) By or for any governmental agency for official use of the agency;
- 24 (3) By or for county, municipal or State law-enforcement officers in the
25 discharge of their official duties;
- 26 (4) By or for security guards sanctioned under Chapters 74A ~~and 74C~~ to
27 74E of the General Statutes, provided those security guards are on duty
28 and have received training according to standards prescribed by the
29 State Bureau of Investigation;
- 30 (5) For bona fide scientific, educational, or industrial purposes;
- 31 (6) In safes, vaults, and depositories, as a means or protection against
32 robbery;
- 33 (7) For use in the home for protection and elsewhere by individuals, who
34 have not been convicted of a felony, for self-defense purposes only, as
35 long as the capacity of any tear gas cartridge, shell, device or container
36 does not exceed 50 cubic centimeters, and any tear gas device or
37 container does not have the capability of discharging any cartridge,
38 shell, or container larger than 50 cubic centimeters."

39 Sec. 3. G.S. 15A-402(f) reads as rewritten:

40 "(f) Campus Police Officers, Immediate and Continuous Flight. – A campus
41 police officer: (i) appointed by a campus law-enforcement agency established pursuant
42 to G.S. 116-40.5(a); or (ii) appointed by the Attorney General pursuant to ~~Chapter 74A~~
43 Chapter 74E and employed by a college or university which is licensed, or exempted
44 from licensure, by G.S. 116-15 may arrest a person outside his territorial jurisdiction

1 when the person arrested has committed a criminal offense within the territorial
2 jurisdiction, for which the officer could have arrested the person within that territory,
3 and the arrest is made during such person's immediate and continuous flight from that
4 territory."

5 Sec. 4. G.S. 20-37.6(3) reads as rewritten:

6 "(3) A law-enforcement officer, including a security officer who has
7 authority to enforce laws on the property of his employer as specified
8 in ~~Chapter 74A~~Chapter 74E, may cause a vehicle parked in violation of
9 this section to be towed; and such officer shall be a legal possessor as
10 provided in G.S. 20-161(d)(2). This law-enforcement officer, or
11 security officer, shall not be held to answer in any civil or criminal
12 action to any owner, lienholder or other person legally entitled to the
13 possession of any motor vehicle removed from such space pursuant to
14 this section, except where such motor vehicle is willfully, maliciously,
15 or negligently damaged in the removal from aforesaid space to place of
16 storage."

17 Sec. 5. G.S. 74C-12(c) reads as rewritten:

18 "(c) The following persons may not be issued a license, registration, or permit
19 under this Chapter:

- 20 (1) A sworn court official.
21 (2) A holder of a company police commission under Chapter 74A of the
22 General Statutes.

23 (d) For purposes of this section, the following shall be considered the equivalent
24 of a municipal police department:

- 25 (1) Campus law-enforcement agencies established pursuant to G.S. 116-
26 40.5(a); and
27 (2) Colleges or universities which are licensed, or exempted from
28 licensure, by G.S. 116-15 and which employ police officers certified
29 by the Attorney General pursuant to ~~Chapter 74A~~Chapter 74E."

30 Sec. 6. G.S. 160A-288(d) reads as rewritten:

31 "(d) For the purposes of this section, the following shall be considered the
32 equivalent of a municipal police department:

- 33 (1) Campus law-enforcement agencies established pursuant to G.S. 116-
34 40.5(a); and
35 (2) Colleges or universities which are licensed, or exempted from
36 licensure, by G.S. 116-15 and which employ police officers certified
37 by the Attorney General pursuant to ~~Chapter 74A~~Chapter 74E."

38 Sec. 7. G.S. 160A-288.2(d) reads as rewritten:

39 "(d) For the purposes of this section, the following shall be considered the
40 equivalent of a municipal police department:

- 41 (1) Campus law-enforcement agencies established pursuant to G.S. 116-
42 40.5(a); and

- 1 (2) Colleges or universities which are licensed, or exempted from
2 licensure, by G.S. 166-15 and which employ police officers certified
3 by the Attorney General pursuant to ~~Chapter 74A~~ Chapter 74E."
4 Sec. 8. Chapter 74A of the General Statutes is repealed.
5 Sec. 9. This act is effective upon ratification, but administrative rules and
6 fees may not become effective before January 1, 1992.