

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 561  
Committee Substitute Favorable 5/27/91  
Committee Substitute #2 Favorable 7/7/92

Short Title: Company Police Act.

(Public)

Sponsors:

Referred to:

April 1, 1991

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

5 The General Assembly of North Carolina enacts:

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

8 **"CHAPTER 74E.**  
9 **"COMPANY POLICE ACT.**

10 **"§ 74E-1. Title.**

11 This Chapter is the 'Company Police Act' and may be cited by that name.

12 **"§ 74E-2. Policy and scope.**

13 (a) The purpose of this Chapter is to ensure a minimum level of integrity,  
14 proficiency, and competence among company police agencies and company police  
15 officers. To achieve this purpose, the General Assembly finds that a Company Police  
16 Program needs to be established. As part of the Company Police Program, the Attorney  
17 General is given the authority to certify an agency as a company police agency and to  
18 commission an individual as a company police officer.

19 (b) A public or private educational institution or hospital, a State institution, or a  
20 corporation engaged in providing on-site police security personnel services for persons  
21 or property may apply to the Attorney General to be certified as a company police  
22 agency. A company police agency may apply to the Attorney General to commission

1 an individual designated by the agency to act as a company police officer for the  
2 agency.

3 **"§ 74E-3. Liability insurance policy or certificate of self-insurance required;**  
4 **suspension of company police agency certification for failure to comply.**

5 (a) An applicant for certification as a company police agency must file with the  
6 Attorney General either a copy of a liability insurance policy that meets the  
7 requirements of this section or a certificate of self-insurance designating assets  
8 sufficient to satisfy the coverage requirements of this section if the applicant is a  
9 nonpublic entity. The policy or certificate of self-insurance must provide not less than  
10 one million dollars (\$1,000,000) of coverage per incident for personal injury or property  
11 damage resulting from a negligent act of the applicant or an agent or employee of the  
12 applicant operating in the course and scope of employment or under color of law. The  
13 form, execution, and terms of a liability insurance policy must meet the requirements of  
14 the Attorney General.

15 (b) An insurance carrier that issues a liability insurance policy required by this  
16 section may cancel the policy upon giving 30 days' written notice to both the company  
17 police agency and the Attorney General. The written notice must be given by certified  
18 mail, return receipt requested. Cancellation of a liability insurance policy does not  
19 affect any liability on the policy that accrued prior to the effective cancellation date.

20 (c) A company police agency that is a nonpublic entity must maintain the  
21 liability insurance policy or certificate of self-insurance required by this section in effect  
22 at all times. The Attorney General shall suspend the certification of a company police  
23 agency that fails to maintain a liability insurance policy or certificate of self-insurance  
24 when required to do so by this section. A certification suspended for this reason may  
25 not be reinstated until the person whose certification was suspended files with the  
26 Attorney General an application for reinstatement and either the required liability  
27 insurance policy or certificate of self-insurance.

28 **"§ 74E-4. Powers of Attorney General.**

29 The Attorney General has the following powers in addition to those conferred  
30 elsewhere in this Chapter:

- 31 (1) To establish minimum education, experience, and training standards  
32 and establish and require written or oral examinations for an applicant  
33 for certification as a company police agency, a certified company  
34 police agency, an applicant for commission as a company police  
35 officer, or a commissioned company police officer.
- 36 (2) To require a company police agency or a company police officer to  
37 submit reports or other information.
- 38 (3) To inspect records maintained by a company police agency.
- 39 (4) To conduct investigations regarding alleged violations of this Chapter  
40 or a rule adopted under this Chapter and to make evaluations as may  
41 be necessary to determine if a company police agency or a company  
42 police officer is complying with this Chapter or a rule adopted under  
43 this Chapter.

- 1           (5) To deny, suspend, or revoke a certification as a company police  
2 agency or a commission as a company police officer for failure to meet  
3 the requirements of or comply with this Chapter or a rule adopted  
4 under this Chapter, in accordance with Article 3 of Chapter 150B of  
5 the General Statutes.
- 6           (6) To appear in the name of the Company Police Program and apply to  
7 the courts having jurisdiction for injunctions to prevent a violation of  
8 this Chapter or a rule adopted under this Chapter.
- 9           (7) To delegate the authority to administer this Chapter.
- 10          (8) To require that the Criminal Justice Standards Division provide  
11 administrative support staff for the Company Police Program.
- 12          (9) To adopt rules needed to implement this Chapter, in accordance with  
13 Chapter 150B of the General Statutes.

14 **"§ 74E-5. Records.**

15          (a) The Attorney General is the legal custodian of all books, papers, documents,  
16 or other records and property of the Company Police Program.

17          (b) Any papers, documents, or other records that become the property of the  
18 Company Police Program and are placed in a company police officer's personnel file  
19 maintained by the Attorney General are subject to the same restrictions concerning  
20 disclosure as set forth in Chapters 126, 153A, and 160A of the General Statutes for  
21 other personnel records.

22          (c) Notwithstanding the provisions of subsection (b), the Attorney General may  
23 disclose the contents of any records maintained under the authority of this Chapter to  
24 the Criminal Justice Education and Training Standards Commission, the Sheriff's  
25 Education and Training Standards Commission, or any other criminal justice agency for  
26 certification or employment purposes.

27 **"§ 74E-6. Oaths, powers, and authority of company police officers.**

28          (a) Requirements. – An individual who is commissioned as a company police  
29 officer must take the oath of office required of a law enforcement officer before the  
30 individual assumes the duties of a company police officer. The person in each company  
31 police agency who is responsible for the agency's company police officers must be  
32 commissioned as a company police officer.

33          (b) Categories. – The following three distinct classifications of company police  
34 officers are established:

- 35           (1) Campus Police Officers – Those company police officers who are  
36 employed by any college or university that is a constituent institution  
37 of The University of North Carolina or any private college or  
38 university that is licensed or exempted from licensure as prescribed by  
39 G.S. 116-15.
- 40           (2) Railroad Police Officers – Those company police officers who are  
41 employed by a certified rail carrier and commissioned as company  
42 police officers under this Chapter.
- 43           (3) Special Police Officers – All company police officers not designated  
44 as a campus police officer or railroad police officer.

1       (c) All Company Police. – Company police officers, while in the performance of  
2 their duties of employment, have the same powers as municipal and county police  
3 officers to make arrests for both felonies and misdemeanors and to charge for  
4 infractions on any of the following:

5           (1) Property owned by or in the possession and control of their employer.

6           (2) Property owned by or in the possession and control of a person who  
7 has contracted with the employer to provide on-site company police  
8 security personnel services for the property.

9           (3) Any other premises while in continuous and immediate pursuit of a  
10 person for an offense committed upon property described in  
11 subdivisions (1) or (2) of this subsection.

12       (d) Campus Police. – Campus police officers have the powers contained in  
13 subsection (c) of this section and also have the powers in that subsection upon that  
14 portion of any public road or highway passing through or immediately adjoining the  
15 property described in that subsection, wherever located. The board of trustees of any  
16 college or university that qualifies as a campus police agency pursuant to this Chapter  
17 may enter into a mutual aid agreement with the governing board of a municipality or,  
18 with the consent of the county sheriff, a county to the same extent as a municipal police  
19 department pursuant to Chapter 160A.

20       (e) Railroad Police. – Railroad police officers have the powers contained in  
21 subsection (c) and also have the powers and authority granted by federal law or by a  
22 regulation promulgated by the United States Secretary of Transportation.  
23 Notwithstanding any of the provisions of this Chapter, the limitations on the power to  
24 make arrests contained in subsection (c) above, shall not be applicable to railroad police  
25 officers commissioned by the Attorney General pursuant to the authority of this  
26 Chapter.

27       (f) Campus Option. – Notwithstanding any of the provisions of this Chapter, the  
28 Board of Trustees of any constituent institution of The University of North Carolina  
29 may elect to have its officers certified under Chapter 17C or Chapter 116 of the General  
30 Statutes rather than requesting certification as a company police agency and company  
31 police commission pursuant to the provisions of this Chapter.

32       (g) Exclusive Authority. – Notwithstanding any other provision of law, the  
33 authority granted to company police officers shall be limited to the provisions of this  
34 Chapter.

35 **"§ 74E-7. Badges, uniforms, weapons, and vehicles.**

36 Company police agencies shall be responsible for ensuring that all employees,  
37 whether or not commissioned, comply with the provisions of this Chapter and the rules  
38 adopted under this Chapter, including those provisions pertaining to the wearing of  
39 badges and uniforms, the carrying of weapons, and the operation of vehicles.

40 **"§ 74E-8. Minimum standards for company police officers.**

41 Applicants for commission as a company police officer and a commissioned  
42 company police officer must meet and maintain the same minimum preemployment and  
43 in-service standards as are required for State law enforcement officers by the North  
44 Carolina Criminal Justice Education and Training Standards Commission, and must

1 meet and maintain any other preemployment and in-service requirements set by the  
2 Attorney General.

3 **"§ 74E-9. Compensation of company police officers.**

4 The compensation of a company police officer shall be paid by the company police  
5 agency for which the officer is commissioned, as may be agreed on between them.

6 **"§ 74E-10. Expiration, renewal, and termination of agency certification or officer**  
7 **commission.**

8 (a) Agency. – Unless sooner suspended or revoked by the Attorney General, a  
9 company police agency's certification expires on June 30 following the date it is issued.  
10 A company police agency may renew the certification upon payment of the appropriate  
11 fee and compliance with this Chapter and the rules adopted under this Chapter. An  
12 entity whose company police agency's certification was denied or revoked for a  
13 violation of this Chapter or a rule adopted under this Chapter is not eligible to apply  
14 again for that certification for three years.

15 (b) Officer. – Unless sooner suspended or revoked by the Attorney General, a  
16 company police officer's commission expires on June 30 following the date it is issued.  
17 A company police officer may renew a commission upon payment of the appropriate  
18 fee and compliance with this Chapter and the rules adopted under this Chapter. The  
19 Attorney General shall immediately revoke the commission of a company police officer  
20 when any of the following occurs:

21 (1) Termination of employment with the company police agency for  
22 which the officer is commissioned.

23 (2) Termination, suspension, or revocation of the certification of the  
24 company police agency for which the officer is commissioned.

25 (3) Failure to meet in-service training requirements as required by this  
26 Chapter or the rules adopted under this Chapter.

27 (4) Violation of this Chapter or a rule adopted under this Chapter.

28 An individual whose company police officer's commission was denied or revoked  
29 for a violation of this Chapter or a rule adopted under this Chapter is not eligible to  
30 apply again for a commission for three years.

31 **"§ 74E-11. Immunity.**

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

36 **"§ 74E-12. Fees.**

37 The Attorney General may charge fees for the items listed in the following table, not  
38 to exceed the amounts listed in the table:

<u>Item</u>	<u>Maximum Fee</u>
<u>Application for certification as</u>	<u>\$1,000</u>
<u>  a company police agency</u>	
<u>Annual renewal of certification</u>	<u>\$1,000</u>
<u>  as a company police agency</u>	
<u>Application for reinstatement of</u>	<u>\$1,500</u>

1	<u>certification as a company</u>	
2	<u>police agency</u>	
3	<u>Application for commission as a</u>	<u>\$150</u>
4	<u>company police officer</u>	
5	<u>Annual renewal of commission as</u>	<u>\$50</u>
6	<u>a company police officer</u>	
7	<u>Application for reinstatement of</u>	<u>\$150</u>
8	<u>commission as a company police</u>	
9	<u>officer</u>	

10 The fees imposed under this section are not refundable. Fees collected under this  
 11 section shall be applied to the cost of administering this Chapter.

12 **"§ 74E-13. Penalties and enforcement.**

13 (a) No private person, firm, association, or corporation, and no public institution,  
 14 agency, or other entity shall engage in, perform any services as, or in any way hold  
 15 itself out as a company police agency or engage in the recruitment or hiring of company  
 16 police officers without having first complied with the provisions of this Chapter. Any  
 17 person, firm, association, or corporation, or their agents and employees violating any of  
 18 the provisions of this Chapter shall be guilty of a misdemeanor and punishable by a fine,  
 19 imprisonment for a term not to exceed two years, or both, in the discretion of the court.

20 (b) The Company Police Program may apply in its own name to the superior  
 21 court for an injunction to prevent any violation or threatened violation of this Chapter or  
 22 a rule adopted under this Chapter, and the superior courts have jurisdiction to grant the  
 23 requested relief, irrespective of whether or not criminal prosecution has been instituted  
 24 or administrative sanctions imposed because of the violation. The venue for an action  
 25 brought under this subsection shall be in any county selected by the Attorney General.

26 (c) This section does not relieve a company police agency from any civil liability  
 27 for the acts of its company police officers in exercising or attempting to exercise the  
 28 powers conferred by this Chapter."

29 Sec. 2. G.S. 14-401.6(a)(4) reads as rewritten:

30 "(4) By or for security guards ~~sanctioned~~ registered under ~~Chapters 74A and~~  
 31 Chapter 74C of the General ~~Statutes, Statutes or company police~~  
 32 officers commissioned under Chapter 74E of the General Statutes,  
 33 provided ~~those security guards~~ they are on duty and have received  
 34 training according to standards prescribed by the State Bureau of  
 35 Investigation;"

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

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

1 territory, and the arrest is made during such person's immediate and continuous flight  
2 from that territory."

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

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

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

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

19 (1) A sworn court official.

20 (2) A holder of a company police commission under Chapter ~~74A-74E~~ of  
21 the General Statutes."

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

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 company police officers  
29 ~~certified-commissioned~~ by the Attorney General pursuant to Chapter  
30 ~~74A-Chapter 74E."~~

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

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

34 (1) Campus law-enforcement agencies established pursuant to G.S. 116-  
35 40.5(a); and

36 (2) Colleges or universities which are licensed, or exempted from  
37 licensure, by G.S. 116-15 and which employ company police officers  
38 ~~certified-commissioned~~ by the Attorney General pursuant to Chapter  
39 ~~74A-Chapter 74E."~~

40 Sec. 8. Chapter 74A of the General Statutes is repealed.

41 Sec. 9. This act is effective upon ratification, but administrative rules and  
42 fees may not become effective before January 1, 1993.