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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

1 agency. A company police agency may apply to the Attorney General to commission
2 an individual designated by the agency to act as a company police officer for the
3 agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 **"§ 74E-7. Badges, uniforms, weapons, and vehicles.**

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

41 **"§ 74E-8. Minimum standards for company police officers.**

42 Applicants for commission as a company police officer and a commissioned
43 company police officer must meet and maintain the same minimum preemployment and
44 in-service standards as are required for State law enforcement officers by the North

1 Carolina Criminal Justice Education and Training Standards Commission, and must
 2 meet and maintain any other preemployment and in-service requirements set by the
 3 Attorney General.

4 **"§ 74E-9. Compensation of company police officers.**

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

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

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

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

- 22 (1) Termination of employment with the company police agency for
 23 which the officer is commissioned.
 24 (2) Termination, suspension, or revocation of the certification of the
 25 company police agency for which the officer is commissioned.
 26 (3) Failure to meet in-service training requirements as required by this
 27 Chapter or the rules adopted under this Chapter.
 28 (4) Violation of this Chapter or a rule adopted under this Chapter.

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

32 **"§ 74E-11. Immunity.**

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

37 **"§ 74E-12. Fees.**

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

<u>Item</u>	<u>Maximum Fee</u>
<u>Application for certification as</u>	<u>\$250</u>
<u>a company police agency</u>	
<u>Annual renewal of certification</u>	<u>\$200</u>
<u>as a company police agency</u>	

1	<u>Application for reinstatement of</u>	<u>\$1,000</u>
2	<u>certification as a company</u>	
3	<u>police agency</u>	
4	<u>Application for commission as a</u>	<u>\$100</u>
5	<u>company police officer</u>	
6	<u>Annual renewal of commission as</u>	<u>\$50</u>
7	<u>a company police officer</u>	
8	<u>Application for reinstatement of</u>	<u>\$150</u>
9	<u>commission as a company police</u>	
10	<u>officer</u>	

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

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

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

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

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

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

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

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

38 "(f) Campus Police Officers, Immediate and Continuous Flight. – A campus
 39 police officer: (i) appointed by a campus law-enforcement agency established pursuant
 40 to G.S. 116-40.5(a); or (ii) ~~appointed~~ commissioned by the Attorney General pursuant to
 41 ~~Chapter 74A~~ Chapter 74E and employed by a college or university which is licensed, or
 42 exempted from licensure, by G.S. 116-15 may arrest a person outside his territorial
 43 jurisdiction when the person arrested has committed a criminal offense within the
 44 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. A certification or commission
42 issued under former Chapter 74A is considered to have been issued under Chapter 74E,
43 as enacted by this act, and expires in accordance with Chapter 74E.