

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1545

Short Title: Company Police Modernization. (Public)

Sponsors: Representatives Allen, Braxton (Primary Sponsors); and Current.

Referred to: Judiciary III, if favorable, Finance.

April 18, 2007

A BILL TO BE ENTITLED
AN ACT TO MODERNIZE THE LAWS GOVERNING COMPANY POLICE.

Whereas, private security and law enforcement is one of the fastest growing industries in our State and nation, and that growth has increased since those tragic events of September 11, 2001; and

Whereas, the State of North Carolina authorizes certain law enforcement officers to have the full power of arrest, the same as a municipal or county officer, under statutes administered by the Attorney General's Office and known as the Company Police Act, Chapter 74E of the General Statutes; and

Whereas, the Company Police Act was last revised by the General Assembly in 1992, and since that time numerous events have occurred that have had a direct impact on the Act; and

Whereas, the Company Police Act at one time included law enforcement agencies on our university, community college, and private college campuses, but during the 2005-2006 Session of the General Assembly, campus company police were removed from Chapter 74E and placed under their own enabling legislation now found in Chapter 74G of the General Statutes; and

Whereas, private entities, government agencies, and railroads are now the remaining law enforcement officers commissioned pursuant to Chapter 74E of the General Statutes; and

Whereas, company police officers supplement State and local law enforcement throughout North Carolina and provide law enforcement services in those areas where it is more economical for a private entity or a government agency to have its own company police agency or where the resources of local government cannot provide the level of services needed or desired; and

Whereas, nationwide acts of catastrophic violence have occurred in schools, both public and private, including those in North Carolina; and

1 Whereas, some of the worst acts of violence and major crimes are now
2 occurring in public places where large numbers of citizens gather, such as shopping
3 malls and sporting events; and

4 Whereas, nine county school boards have company police agencies protecting
5 their county schools, and their officers serve as school resource officers; and

6 Whereas, other company police officers provide protection to public schools
7 in North Carolina on a contract basis; and

8 Whereas, eight county hospitals have company police agencies protecting the
9 patients, doctors, nurses, administrators, staff, and visitors to county hospitals in our
10 State; and

11 Whereas, one State government hospital has a company police agency
12 protecting the patients, doctors, nurses, administrators, staff, and visitors; and

13 Whereas, three State agencies have company police agencies protecting State
14 government property and the people of the State of North Carolina; the North Carolina
15 State Fairgrounds, under the Department of Agriculture; the North Carolina Museum of
16 Art, under the Department of Cultural Resources; and the North Carolina Arboretum
17 under The University of North Carolina System; and

18 Whereas, the two largest power companies in North Carolina, Duke Energy
19 and Progress Energy, have company police officers protecting their nuclear power
20 plants, their other power generation facilities, their transmission lines, and their other
21 real and personal property, as well as their employees and the public in North Carolina;
22 and

23 Whereas, four large golf and residential country clubs in North Carolina have
24 company police agencies protecting their real and personal property and the residents
25 and visitors to their property; and

26 Whereas, the Biltmore Estate, one of the best known tourist attractions in
27 North Carolina, has company police officers protecting its one million annual visitors
28 and guests, as well as its real property and the priceless artifacts contained in that
29 historic tourist site, as well as the hotel, winery, and other facilities found on the
30 Biltmore Estate; and

31 Whereas, over 30 more commissioned company police agencies and their
32 certified officers provide security and law enforcement services to shopping centers,
33 residential areas, corporate buildings, government buildings, gamelands, railroads and
34 other public transportation, and unincorporated communities protecting thousands of
35 North Carolina citizens every day; and

36 Whereas, company police officers receive the same mandated training and the
37 same mandated in-service training as State, municipal, and county officers, but in
38 addition are required to undertake a polygraph test and a psychological evaluation prior
39 to employment, which are criteria not required of all law enforcement officers in our
40 State; and

41 Whereas, Chapter 74E of the General Statutes, the Company Police Act, is no
42 longer adequate to serve the interests of the State of North Carolina and to provide the
43 protection necessary to fulfill the mission of company police in our State; and

1 Whereas, there are over 58 commissioned company police agencies in North
2 Carolina and almost 475 certified company police officers serving the State; and

3 Whereas, these company police officers assist and supplement other law
4 enforcement agencies throughout our State on a daily basis and are a vital part of our
5 criminal justice system; and

6 Whereas, the General Assembly of North Carolina finds that it is in the best
7 interest of the State of North Carolina, and in furtherance of the public's health, safety,
8 and welfare, for it to modernize the laws governing company police such that the
9 jurisdiction of these officers is expanded and their powers and duties are made to
10 conform with the needs of a growing State; Now, therefore,
11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** G.S. 74E-4(1) reads as rewritten:

13 **"§ 74E-4. Powers of Attorney General.**

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

- 16 (1) To establish minimum education, experience, and training standards
17 and establish and require written or oral examinations for an applicant
18 for certification as a company police agency, a certified company
19 police agency, an applicant for commission as a company police
20 officer, ~~or a commissioned company police officer.~~ officer, or an
21 applicant for a company police agency head or chief.

22 ..."

23 **SECTION 2.** G.S. 74E-6(c) reads as rewritten:

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

- 28 (1) Real property owned by or in the possession and control of their
29 employer.
30 (2) Real property owned by or in the possession and control of a person
31 who has contracted with the employer to provide on-site company
32 police security personnel services for the property.
33 (3) Any other real property while in continuous and immediate pursuit of a
34 person for an offense committed upon property described in
35 subdivisions (1) or (2) of this subsection.

36 Company police officers shall have, if duly authorized by the superior officer in charge,
37 the authority to carry concealed weapons pursuant to and in conformity with
38 G.S. 14-269(b)(4) and (5).

39 In the event of a State-declared emergency such as a natural disaster, terrorist attack,
40 civil disorder, or similar exigent circumstance, the Governor may request, and the
41 Attorney General may grant, temporary extraterritorial jurisdiction to company police
42 officers the powers contained in this section upon roads and highways and upon any
43 other State-owned or controlled property for the purpose of, and to the extent necessary,
44 for company police officers to assist State and local authorities to maintain law and

1 order during such a State-declared emergency. During the period of the State-declared
2 emergency, company police officers who have been granted temporary extraterritorial
3 jurisdiction pursuant to this subsection shall be under the management and control of
4 the Secretary of Crime Control and Public Safety or the Secretary's designee. Company
5 police officers who render services to the State under this subsection shall be
6 compensated in accordance with G.S. 160A-288.1."

7 **SECTION 3.** G.S. 74E-6 is amended by adding two new subsections to read:

8 "(c1) Company Police Officers Employed by Government Agencies or Institutions.
9 – Company Police officers employed by governmental agencies or institutions have the
10 powers contained in subsection (c) of this section and also have the powers in that
11 subsection upon that portion of any public road or highway passing through or
12 immediately adjoining the property described in that subsection wherever located within
13 the State.

14 (c2) Company Police Officers Employed by Nongovernmental Agencies and
15 Institutions. – Company police officers employed by nongovernmental agencies or
16 institutions have the powers contained in subsection (c) of this section and also have the
17 powers to direct, control, and regulate the movement of traffic, both pedestrian and
18 vehicular, upon that portion of any public road or highway passing through or
19 immediately adjoining the property described in that subsection. The authority granted
20 to nongovernmental company police officers to direct, control, and regulate traffic
21 under this subsection is for the purpose of, and to the extent necessary, to protect life or
22 property at the scene of, or in connection with, any accident, fire, medical emergency,
23 road hazard, natural disaster, civil disturbance, crime scene, terrorist act, or special
24 event.

25 The authority granted under this subsection does not include the power to make
26 arrests or charge for infractions upon public roads or highways beyond the limitations
27 set forth under subdivision (3) of subsection (c) of this section. However, the
28 department head or chief of a nongovernmental company agency may make application
29 to the sheriff of the county requesting limited extraterritorial jurisdiction to make arrests
30 and charge for infractions upon that portion of any public road or highway passing
31 through or immediately adjoining the requesting company police agency's jurisdiction
32 as described in subdivisions (1) and (2) of subsection (c) of this section. The sheriff of
33 the county shall have 10 days in which to evaluate the request and then shall forward the
34 application to the Attorney General with a recommendation. The Attorney General shall
35 have 30 days in which to review the application and determine whether granting the
36 request shall serve the public safety interests of the locale. If approved, the authorization
37 shall be in writing and specify the street names and geographic location of that portion
38 of the public roads or highways upon which the requesting company police agency's
39 sworn law enforcement officers have been granted limited extraterritorial jurisdiction to
40 exercise the powers contained in subsection (c) of this section upon the specified streets
41 or highways. A copy of the written authorization must be filed immediately by the
42 agency's department head or chief with the Clerk of Superior Court within the company
43 police agency's jurisdiction.

1 The authority granted under this subsection may be suspended or revoked by the
 2 Attorney General upon the request of the sheriff of the county for cause or pursuant to
 3 and in conformity with G.S. 74E-10."

4 **SECTION 4.** G.S. 74E-6(g) reads as rewritten:

5 "(g) Exclusive Authority. – ~~Notwithstanding any~~ Unless specifically set forth in
 6 some other provision of law, the authority granted to company police officers shall be
 7 limited to the provisions of this Chapter."

8 **SECTION 5.** G.S. 74E-6 is amended by adding a new subsection to read:

9 "(h) All company police officers, whether employed by a governmental agency or
 10 institution or a nongovernmental agency or institution, shall be eligible for tuition
 11 waiver at the State's community colleges for mandated in-service training in the same
 12 manner as municipal and county law enforcement officers."

13 **SECTION 6.** G.S. 74E-12 reads as rewritten:

14 "**§ 74E-12. Fees.**

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

<u>Item</u>	<u>Maximum Fee</u>
17 Application for certification as	\$250 \$750
18 a company police agency	
19 Annual renewal of certification	\$200 \$500
20 as a company police agency	
21 Application for reinstatement of	\$1,000
22 certification as a company	
23 police agency	
24 Application for commission as a	\$100 \$300
25 company police officer	
26 Annual renewal of commission as	\$50 \$200
27 a company police officer	
28 Application for reinstatement of	\$150
29 commission as a company police	
30 officer	

31 The fees imposed under this section are not refundable. Fees collected under this
 32 section shall be applied to the cost of administering this ~~Chapter.~~ Chapter, including the
 33 employment of a full-time administrator, one or more full-time investigators or field
 34 representatives, and a part-time attorney and for no other purposes."

35 **SECTION 7.** G.S. 20-114.1(c) reads as rewritten:

36 "(c) The chief of police of a local or county police department or a company
 37 police agency certified pursuant to Chapter 74E of the General Statutes or the sheriff of
 38 any county is authorized to appoint traffic-control officers, who shall have attained the
 39 age of 18 years and who are hereby authorized to direct, control, or regulate traffic
 40 within their respective jurisdictions at times and places specifically designated in
 41 writing by the police chief or the sheriff. A traffic-control officer, when exercising this
 42 authority, must be attired in a distinguishing uniform or jacket indicating that he is a
 43 traffic-control officer and must possess a valid authorization card issued by the police
 44

1 chief or sheriff who appointed him. Unless an earlier expiration date is specified, an
2 authorization card shall expire two years from the date of its issuance. In order to be
3 appointed as a traffic-control officer, a person shall have received at least three hours of
4 training in directing, controlling, or regulating traffic under the supervision of a
5 law-enforcement officer. A traffic-control officer shall be subject to the rules and
6 regulations of the respective local or county police department or a company police
7 agency certified pursuant to Chapter 74E of the General Statutes or sheriff's office as
8 well as the lawful command of any other law-enforcement officer. The appointing
9 police chief or sheriff shall have the right to revoke the appointment of any
10 traffic-control officer at any time with or without cause. The appointing police chief or
11 sheriff shall not be held liable for any act or omission of a traffic-control officer. A
12 traffic-control officer shall not be deemed to be an agent or employee of the respective
13 local or county police department or of the sheriff's office, nor shall he be considered a
14 law-enforcement officer except as provided herein. A traffic-control officer shall not
15 have nor shall he exercise the power of arrest."

16 **SECTION 8.** G.S. 20-130.1(c) reads as rewritten:

17 "(c) It is unlawful for any person to possess a blue light or to install, activate, or
18 operate a blue light in or on any vehicle in this State, except for a publicly owned
19 vehicle used for law enforcement ~~purposes~~ purposes, a vehicle owned or operated by a
20 company police agency, or any other vehicle when used by law enforcement officers in
21 the performance of their official duties. As used in this subsection, unless the context
22 requires otherwise, "blue light" means any forward facing blue light installed on a
23 vehicle after initial manufacture of the vehicle; or an operable blue light which:

- 24 (1) Is not (i) being installed on, held in inventory for the purpose of being
25 installed on, or held in inventory for the purpose of sale for installation
26 on a vehicle on which it may be lawfully operated or (ii) installed on a
27 vehicle which is used solely for the purpose of demonstrating the blue
28 light for sale to law enforcement personnel;
- 29 (1a) Is designed for use by an emergency vehicle, or is similar in
30 appearance to a blue light designed for use by an emergency vehicle;
31 and
- 32 (2) Can be operated by use of the vehicle's battery, the vehicle's electrical
33 system, or a dry cell battery."

34 **SECTION 9.** G.S. 15A-402(c) reads as rewritten:

35 "(c) ~~City Officers, Officers and Commissioned Police Officers~~, Outside Territory.
36 – Law-enforcement officers of cities may arrest persons at any point which is one mile
37 or less from the nearest point in the boundary of such city. Law enforcement officers of
38 cities and officers of a certified company police agency may transport a person in
39 custody to or from any place within the State for the purpose of that person attending
40 criminal court proceedings. While engaged in the transportation of persons for the
41 purpose of attending criminal court proceedings, law enforcement officers of cities and
42 officers of a certified company police agency may arrest persons at any place within the
43 State for offenses occurring in connection with and incident to the transportation of
44 persons in custody."

1 **SECTION 10.** G.S. 15A-402 is amended by adding a new subsection to
2 read:

3 "(g) Company Police Officers, Immediate and Continuous Flight. – A company
4 police officer commissioned by the Attorney General pursuant to Chapter 74E of the
5 General Statutes and employed by a certified company police agency may arrest a
6 person outside the officer's territorial jurisdiction when the person arrested has
7 committed a criminal offense or infraction within the territorial jurisdiction, for which
8 the officer could have arrested the person within that jurisdiction, and the arrest is made
9 during the person's immediate and continuous flight from that territory."

10 **SECTION 11.** G.S. 20-114 is amended by adding a new subsection to read:

11 "(e) Commissioned company police officers appointed by the Attorney General
12 pursuant to Chapter 74E of the General Statutes may direct, control, and regulate the
13 movement of both pedestrian and vehicular traffic on that portion of any public road or
14 highway running through the jurisdiction of their employing agency. The authority of
15 company police officers to direct, control, and regulate traffic on public roads is for the
16 purpose of protecting lives or property at the scene of or in connection with any
17 accident, fire, medical emergency, road hazard, natural disaster, civil disturbance,
18 terrorist act, crime scene, or special events or circumstances that would serve the
19 interest of State or local law enforcement, emergency medical services, or emergency
20 disaster services."

21 **SECTION 12.** G.S. 74C-12(c) reads as rewritten:

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

- 24 (1) A sworn court official.
- 25 (2) A holder of a company police commission under Chapter 74E of the
26 General Statutes. However, the board may approve the designated
27 head or chief of a certified company agency engaged in the provision
28 of contract security police services as the qualifying agent and licensee
29 of a security guard and patrol business."

30 **SECTION 13.** G.S. 74C-21(a) reads as rewritten:

31 "(a) No law enforcement officer of the United States, this State, any other state, or
32 any political subdivision of a state shall be licensed as a private detective or security
33 guard and patrol licensee under this ~~Chapter~~. Chapter, except that an agency head or
34 chief of a company police agency certified pursuant to Chapter 74E of the General
35 Statutes may be approved as a qualifying agent and licensed as a security guard and
36 patrol business."

37 **SECTION 14.** G.S. 90-95.2(b)(2) reads as rewritten:

38 "(2) "Law-enforcement agency" means any State or local agency, force,
39 department, or ~~unit~~ unit, or company police agency certified by the
40 Attorney General pursuant to Chapter 74E of the General Statutes,
41 responsible for enforcing criminal laws in this State, including any
42 local police department or sheriff's department."

43 **SECTION 15.** G.S. 122C-3(19) reads as rewritten:

1 "(19) "Law-enforcement officer" means sheriff, deputy sheriff, police
2 officer, State highway patrolman, commissioned company police
3 officer, or an officer employed by a city or county under
4 G.S. 122C-302."

5 **SECTION 16.** G.S. 160A-288.2(d) reads as rewritten:

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

8 (1) Campus law-enforcement agencies established pursuant to
9 G.S. 116-40.5(a), and G.S. 116-40.5(a).

10 (2) Colleges or universities which are licensed, or exempted from
11 licensure, by G.S. 116-15 and which employ company police officers
12 commissioned by the Attorney General pursuant to Chapter 74E or
13 Chapter 74G of the General Statutes.

14 (3) Butner Public Safety.

15 (4) Company police agencies certified by the Attorney General pursuant to
16 Chapter 74E of the General Statutes."

17 **SECTION 17.** This act becomes effective July 1, 2007.