

## **Chapter 74E.**

### **Company Police Act.**

#### **§ 74E-1. Title.**

This Chapter is the "Company Police Act" and may be cited by that name. (1991 (Reg. Sess., 1992), c. 1043, s. 1.)

#### **§ 74E-2. Policy and scope.**

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

(b) A hospital, a State institution, or a corporation engaged in providing on-site police security personnel services for persons or property may apply to the Attorney General to be certified as a company police agency. A company police agency may apply to the Attorney General to commission an individual designated by the agency to act as a company police officer for the agency. (1991 (Reg. Sess., 1992), c. 1043, s. 1; 2005-231, s. 2.)

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

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

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

(c) A company police agency that is a nonpublic entity must maintain the liability insurance policy or certificate of self-insurance required by this section in effect at all times. The Attorney General shall suspend the certification of a company police agency that fails to maintain a liability insurance policy or certificate of self-insurance when required to do so by this section. A certification suspended for this reason may not be reinstated until the person whose certification was suspended files with the Attorney General an application for reinstatement and either the required liability insurance policy or certificate of self-insurance. (1991 (Reg. Sess., 1992), c. 1043, s. 1.)

#### **§ 74E-4. Powers of Attorney General.**

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

- (1) To establish minimum education, experience, and training standards and establish and require written or oral examinations for an applicant for certification as a company police agency, a certified company police agency, an applicant for commission as a company police officer, or a commissioned company police officer.
- (2) To require a company police agency or a company police officer to submit reports or other information.
- (3) To inspect records maintained by a company police agency.
- (4) To conduct investigations regarding alleged violations of this Chapter or a rule adopted under this Chapter and to make evaluations as may be necessary to determine if a company police agency or a company police officer is complying with this Chapter or a rule adopted under this Chapter.
- (5) To deny, suspend, or revoke a certification as a company police agency or a commission as a company police officer for failure to meet the requirements of or comply with this Chapter or a rule adopted under this Chapter, in accordance with Article 3 of Chapter 150B of the General Statutes.
- (6) To appear in the name of the Company Police Program and apply to the courts having jurisdiction for injunctions to prevent a violation of this Chapter or a rule adopted under this Chapter.
- (7) To delegate the authority to administer this Chapter.
- (8) To require that the Criminal Justice Standards Division provide administrative support staff for the Company Police Program.
- (9) To adopt rules needed to implement this Chapter, in accordance with Chapter 150B of the General Statutes.
- (10) To monitor compliance with G.S. 20-185.1(d). (1871-2, c. 138, ss. 51, 52; Code, ss. 1988, 1989; Rev., ss. 2605, 2606; 1907, c. 128, s. 1; C.S., s. 3484; 1923, c. 23; 1933, c. 61; 1943, c. 676, ss. 1, 4; 1947, c. 390; 1963, c. 1165, s. 2; 1965, cc. 297, 581; 1977, c. 148, s. 4; 1991 (Reg. Sess., 1992), c. 1043, s. 1; 2018-5, s. 35.25(f).)

**§ 74E-5. Records.**

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

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

(c) Notwithstanding the provisions of subsection (b), the Attorney General may disclose the contents of any records maintained under the authority of this Chapter to the Criminal Justice Education and Training Standards Commission, the Sheriff's Education and Training Standards Commission, or any other criminal justice agency for certification or employment purposes. (1991 (Reg. Sess., 1992), c. 1043, s. 1.)

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

(a) Requirements. – An individual who is commissioned as a company police officer must take the oath of office required of a law enforcement officer before the individual assumes the

duties of a company police officer. The person in each company police agency who is responsible for the agency's company police officers must be commissioned as a company police officer.

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

- (1) Campus Police Officers – Only those company police officers who are employed by any college or university that is a constituent institution of The University of North Carolina or any private college or university that is licensed or exempted from licensure as prescribed by G.S. 116-15, and who are employed by a campus police agency that was licensed pursuant to this Chapter prior to the enactment of Chapter 74G of the General Statutes.
- (2) Railroad Police Officers – Those company police officers who are employed by a certified rail carrier and commissioned as company police officers under this Chapter.
- (3) Special Police Officers – All company police officers not designated as a campus police officer or railroad police officer.

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

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

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

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

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

(f) Repealed by Session Laws 2005-231, s. 3, effective July 28, 2005.

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

(h) Mutual Aid Agreements. – All company police agencies that qualify pursuant to this Chapter may enter into mutual aid agreements with the governing board of a municipality or, with

the consent of the county sheriff, a county to the same extent as a municipal police department pursuant to Chapter 160A of the General Statutes.

(i) **As-Needed Assistance.** – All company police may provide temporary assistance to a law enforcement agency at the request of the head of that agency, or the head of that agency's designee, such as the sheriff or chief of police, regardless of whether there is an agreement in place under subsection (h) of this section. While acting pursuant to this section, a company police officer shall have the same powers vested in law enforcement officers of the agency asking for temporary assistance, but shall not be considered an officer, employee, or agent of the law enforcement agency asking for temporary assistance. Nothing in this subsection shall be construed to expand company police officers' authority to initiate or conduct an independent investigation into violations of criminal laws outside the scope of their subject matter or territorial jurisdiction. (1871-2, c. 138, s. 53; Code, s. 1990; Rev., s. 2607; 1907, c. 128, s. 2; c. 462; c. 470, ss.3, 4; C.S., ss. 3483, 3485; 1933, c. 134, s. 8; 1941, c. 97, s. 5; 1943, c. 676, s. 2; 1959, c. 124, s. 1; 1963, c. 1165, s. 2; 1965, c. 872; 1969, c. 844, s. 8; 1977, c. 148, s. 4; 1981, c. 884, s. 4; 1987, c. 469; 1989, c. 518, s. 1; 1991 (Reg. Sess., 1992), c. 1043, s. 1; 1997-441, s. 1; 1999-68, s. 3; 2005-231, s. 3; 2006-259, s. 5(b); 2017-57, s. 17.2(a).)

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

Company police agencies shall be responsible for ensuring that all employees, whether or not commissioned, comply with the provisions of this Chapter and the rules adopted under this Chapter, including those provisions pertaining to the wearing of badges and uniforms, the carrying of weapons, and the operation of vehicles. (1871-2, c. 138, s. 54; Code, s. 1991; Rev., s. 2608; C.S., s. 3486; 1963, c. 1165, s. 2; 1991 (Reg. Sess., 1992), c. 1043, s. 1.)

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

Applicants for commission as a company police officer and a commissioned company police officer must meet and maintain the same minimum preemployment and in-service standards as are required for State law enforcement officers by the North Carolina Criminal Justice Education and Training Standards Commission, and must meet and maintain any other preemployment and in-service requirements set by the Attorney General. (1991 (Reg. Sess., 1992), c. 1043, s. 1.)

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

The compensation of a company police officer shall be paid by the company police agency for which the officer is commissioned, as may be agreed on between them. (1871-2, c. 138, s. 55; Code, s. 1992; Rev., s. 2609; C.S., s. 3487; 1963, c. 1165, s. 2; 1991 (Reg. Sess., 1992), c. 1043, s. 1.)

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

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

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

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

An individual whose company police officer's commission was denied or revoked for a violation of this Chapter or a rule adopted under this Chapter is not eligible to apply again for a commission for three years. (1871-2, c. 138, s. 56; Code, s. 1993; Rev., s. 2610; C.S., s. 3488; 1943, c. 676, s. 3; 1959, c. 124, s. 2; 1963, c. 1165, s. 2; 1977, c. 148, s. 5; 1991 (Reg. Sess., 1992), c. 1043, s. 1.)

#### **§ 74E-11. Immunity.**

Neither the Attorney General nor any of the Attorney General's employees may be held criminally or civilly liable for any acts or omissions in carrying out the provisions of this Chapter or for the acts or omissions of agencies or officers certified or commissioned under this Chapter. (1991 (Reg. Sess., 1992), c. 1043, s. 1.)

#### **§ 74E-12. Fees.**

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

<u>Item</u>	<u>Maximum Fee</u>
Application for certification as a company police agency	\$250
Annual renewal of certification as a company police agency	\$200
Application for reinstatement of certification as a company police agency	\$1,000
Application for commission as a company police officer	\$100
Annual renewal of commission as a company police officer	\$50
Application for reinstatement of commission as a company police officer	\$150

The fees imposed under this section are not refundable. Fees collected under this section shall be applied to the cost of administering this Chapter. (1991 (Reg. Sess., 1992), c. 1043, s. 1.)

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

(a) No private person, firm, association, or corporation, and no public institution, agency, or other entity shall engage in, perform any services as, or in any way hold itself out as a company police agency or engage in the recruitment or hiring of company police officers without having first complied with the provisions of this Chapter. Any person, firm, association, or corporation, or their agents and employees violating any of the provisions of this Chapter shall be guilty of a Class 1 misdemeanor.

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

(c) This section does not relieve a company police agency from any civil liability for the acts of its company police officers in exercising or attempting to exercise the powers conferred by this Chapter. (1991 (Reg. Sess., 1992), c. 1043, s. 1; 1993 (Reg. Sess., 1994), c. 767, s. 26.)