

**CHAPTER 291****SWIMMING POOLS AND SPAS***H.F. 373*

**AN ACT** relating to the registration, regulation, and inspection of swimming pools and spas, and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

**Section 1. NEW SECTION. 135J.1 DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:

1. "Department" means the Iowa department of public health.
2. "Local board of health" means a county, city, or district board of health as defined in section 137.2.
3. "Swimming pool" means an artificial basin and its appurtenances, either constructed or operated for swimming, wading, or diving, and includes a swimming pool, wading pool, water-slide, or associated bathhouse.
4. "Spa" means a bathing facility such as a hot tub or whirlpool designed for recreational or therapeutic use. However, "spa" does not include a facility used under direct supervision of qualified medical personnel.

**Sec. 2. NEW SECTION. 135J.2 APPLICABILITY.**

This chapter applies to all swimming pools and spas owned or operated by local or state government, or commercial interests or private entities including, but not limited to, facilities operated by cities, counties, public or private school corporations, hotels, motels, camps, apartments, condominiums, and health or country clubs. This chapter does not apply to facilities intended for single family use. To avoid duplication and promote coordination of inspection activities, the department may enter into agreements pursuant to chapter 28E with a local board of health or multiple boards of health representing contiguous areas to provide for inspection and enforcement in accordance with this chapter.

**Sec. 3. NEW SECTION. 135J.3 REGISTRATION REQUIRED.**

A person shall not operate a swimming pool or spa without first having registered with the department. Registration shall be renewed annually.

**Sec. 4. NEW SECTION. 135J.4 POWERS AND DUTIES.**

The department is responsible for registering and regulating the operation of swimming pools and spas. The department shall conduct seminars and training sessions, and disseminate information regarding health practices, safety measures, and operating procedures required under this chapter. The department may:

1. Inspect, at the time of installation and periodically thereafter, all swimming pools and spas for the purpose of detecting and eliminating health or safety hazards.
2. Establish minimum safety and sanitation criteria for the operation and use of swimming pools and spas.
3. Establish minimum qualifications for swimming pool, spa, and waterslide operators and lifeguards.
4. Establish and collect fees to defray the cost of administering this chapter. However, the portion of fees needed to defray the costs of a local board of health in implementing this chapter shall be established by the local board of health.
5. Adopt rules in accordance with chapter 17A for the implementation and enforcement of this chapter, and the establishment of fees. The department shall appoint an advisory committee composed of owners, operators, local officials, and representatives of the public to advise it in the formulation of appropriate rules.

6. Enter into agreements with a local board of health or local boards of health in a contiguous area to implement the inspection and enforcement provisions of this chapter. The agreements shall provide that the fees established by the local board or boards of health for inspection and enforcement shall be retained by the local board or boards. A local board of health or boards of health in a contiguous area may enter into such an agreement with the department. However, inspection fees shall not be charged by the department for facilities which are inspected by third-party authorities. Third-party authorities shall be approved by the department. The department shall monitor and certify the inspection and enforcement programs of local boards of health and approved third-party authorities.

Sec. 5. NEW SECTION. 135J.5 PENALTY.

A person who violates a provision of this chapter commits a simple misdemeanor. Each day upon which a violation occurs constitutes a separate violation.

Sec. 6. NEW SECTION. 135J.6 ENFORCEMENT.

If the department or a local board or boards of health acting pursuant to agreement with the department determines that a provision of this chapter or a rule adopted pursuant to this chapter has been or is being violated, the department or the local board or boards of health may order that a facility or item of equipment not be used until the necessary corrective action has been taken. The department or the local board of health may request the county attorney to bring appropriate legal proceedings to enforce this chapter, including an action to enjoin violations. The attorney general may also institute appropriate legal proceedings at the request of the department. This remedy is in addition to any other legal remedy available to the department or a local board or boards of health.

Sec. 7. Section 25A.14, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. A claim relating to a swimming pool or spa as defined in section 135J.1 which has been inspected in accordance with chapter 135J, or a swimming pool or spa inspection program, which has been established or certified by the state in accordance with that chapter, unless the claim is based upon an act or omission of an officer or employee of the state and the act or omission constitutes actual malice or a criminal offense.

Sec. 8. Section 613A.4, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A claim relating to a swimming pool or spa as defined in section 135J.1 which has been inspected by a municipality or the state in accordance with chapter 135J, or a swimming pool or spa inspection program which has been certified by the state in accordance with that chapter, whether or not owned or operated by a municipality, unless the claim is based upon an act or omission of an officer or employee of the municipality and the act or omission constitutes actual malice or a criminal offense.

Approved June 2, 1989