

Sen. Ways means 2-20-89 (p. 444)
Amend + Do pass 2-28-89 (p. 568) per amend. 5-3133

FILED FEB 14 1989

SENATE FILE **214**
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 95)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

3595

1 An Act relating to the registration, regulation, and inspection
2 of swimming pools, spas, and bathing beaches and providing
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 214

3595 amend Ball-

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

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

3133 1. "Bathing beach" means a body of water or artificial
5 impoundment and adjacent land area not contained within a
6 structure, chamber, or tank and designated for swimming,
7 diving, or recreational bathing. This includes natural lakes,
8 artificial lake impoundments, ponds, rivers, and streams, with
9 their buildings, equipment, and appurtenances.

10 2. "Department" means the Iowa department of public
11 health.

12 3. "Local board of health" means a county, city, or
13 district board of health as defined in section 137.2.

14 4. "Swimming pool" means an artificial basin and its
15 appurtenances, either constructed or operated for swimming,
16 wading, or diving, and includes a swimming pool, wading pool,
17 waterslide, or associated bathhouse.

18 5. "Spa" means a bathing facility such as a hot tub or
19 whirlpool designed for recreational or therapeutic use.
20 However, "spa" does not include a facility used under direct
21 supervision of qualified medical personnel.

3133-22 Sec. 2. NEW SECTION. 135J.2 APPLICABILITY.

316, 317 23 This chapter applies to all swimming pools, spas, and
24 bathing beaches owned or operated by local or state
25 government, or commercial interests or private entities
26 including, but not limited to, facilities operated by cities,
27 counties, public or private school corporations, hotels,
28 motels, camps, apartments, condominiums, and health or country
29 clubs. This chapter does not apply to facilities intended for
30 single family use. To avoid duplication and promote
31 coordination of inspection activities, the department may
32 enter into agreements pursuant to chapter 28E with local
33 boards of health to provide for inspection and enforcement in
34 accordance with this chapter.

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

3133-1 A person shall not operate a swimming pool or spa without
2 first having registered with the department. Registration
3 shall be renewed annually.

3133-4 Sec. 4. NEW SECTION. 135J.4 POWERS AND DUTIES.

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

11 1. Inspect, at the time of installation or establishment
12 and periodically thereafter, all swimming pools, spas, and
13 bathing beaches for the purpose of detecting and eliminating
14 health or safety hazards.

15 2. Establish minimum safety and sanitation criteria for
16 the operation and use of swimming pools, spas, and bathing
3169 3147-17 beaches.

18 3. Establish minimum qualifications for swimming pool,
19 spa, bathing beach, and waterslide operators and lifeguards.

3133-20 4. Establish and collect fees to defray the cost of
21 administering this chapter. However, the portion of fees
22 needed to defray the costs of a local board of health in
23 implementing this chapter shall be established by the local
24 board of health.

25 5. Adopt rules in accordance with chapter 17A for the
26 implementation and enforcement of this chapter, and the
3133-27 establishment of fees. The department shall appoint an
28 advisory committee composed of owners, operators, local
29 officials, and representatives of the public to advise it in
30 the formulation of appropriate rules.

3133-31 6. Enter into agreements with local boards of health to
32 implement the inspection and enforcement provisions of this
33 chapter. The agreements shall provide that the fees necessary
34 to cover costs of inspection and enforcement by the local
35 board of health shall be retained by the board and the portion

1 of the fees necessary to cover the costs of the department
2 shall be collected and remitted to the department. A local
3 board of health may enter into such an agreement with the
4 department. However, inspection fees shall not be charged by
5 the department for facilities which are inspected by third-
6 party authorities. Third-party authorities shall be approved
7 by the department. The department shall monitor and certify
8 the inspection and enforcement programs of local boards of
9 health and approved third-party authorities.

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

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

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

3133-15 If the department or a local board of health acting
16 pursuant to agreement with the department determines that a
17 provision of this chapter or a rule adopted pursuant to this
18 chapter has been or is being violated, the department or the
19 local board of health may order that a facility or item of
20 equipment not be used until the necessary corrective action
21 has been taken. If the facility or equipment continues to be
22 used in violation of the order of the department or the local
23 board of health, the department or the local board of health
24 may request that the county attorney or the attorney general
25 make an application in the name of the state to the district
26 court of the county in which the violation has occurred for an
27 order to enjoin the violation. This remedy is in addition to
28 any other legal remedy available to the department or a local
29 board of health.

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

32 NEW SUBSECTION. 13. A claim relating to a swimming pool,
33 spa, or bathing beach as defined in section 135J.1 which has
34 been inspected in accordance with chapter 135J, or a swimming
35 pool, spa, or bathing beach inspection program, which has been

1 established or certified by the state in accordance with that
2 chapter, unless the claim is based upon an act or omission of
3 an officer or employee of the state and the act or omission
4 constitutes actual malice or a criminal offense.

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

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

17 EXPLANATION

18 This bill establishes a new chapter, tentatively numbered
19 135J, which allows the Iowa department of public health to
20 register and regulate swimming pools, spas, and bathing
21 beaches. The department may inspect pools, spas, and bathing
22 beaches upon installation or establishment and periodically
23 thereafter; establish minimum safety and sanitation criteria
24 for operation of pools, spas, and bathing beaches; establish
25 minimum qualifications for pool, spa, bathing beach and
26 waterslide operators and lifeguards; establish and collect
27 fees to defray the costs incurred under the chapter; and adopt
28 rules and enter into agreements with local boards of health
29 and third-party authorities to implement the provisions of the
30 chapter. The bill provides for enforcement of the chapter and
31 provides penalties. The bill also exempts claims relating to
32 a swimming pool, spa, or bathing beach or a swimming pool,
33 spa, or bathing beach inspection program which has been
34 established or certified by the state, from the provisions of
35 the state tort claims Act and from the tort liability of

1 governmental subdivisions. However, the exemption does not
2 apply if the claim is based upon an act or omission of an
3 officer or employee if the act or omission constitutes actual
4 malice or a criminal offense.

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SENATE FILE 214

S-3147

1 Amend Senate File 214 as follows:
2 1. Page 1, lines 29 and 30, by striking the
3 words: "This chapter does not apply to facilities
4 intended for single family use."
5 2. Page 1, line 34, by inserting after the word
6 "chapter." the following: "This chapter does not
7 apply to facilities intended for single family use
8 with the exception of the installation of safety
9 fences as required pursuant to section 135J.4."
10 3. Page 2, line 17, by inserting after the word
11 "beaches." the following: "The safety standards for
12 swimming pools, including swimming pools intended for
13 single family use, shall require the installation of a
14 safety fence surrounding a swimming pool. For the
15 purpose of this subsection, "safety fence" means a
16 chain link fence which is a minimum of four feet in
17 height."

By CALVIN O. HULTMAN
RICHARD F. DRAKE

S-3147 FILED MARCH 1, 1989

Out of Order 4-13-89 (p. 1425)

SENATE FILE 214

S-3169

1 Amend Senate File 214 as follows:
2 1. Page 1, lines 29 and 30, by striking the
3 words: "This chapter does not apply to facilities
4 intended for single family use."
5 2. Page 1, line 34, by inserting after the word
6 "chapter." the following: "This chapter does not
7 apply to facilities intended for single family use
8 with the exception of the installation of safety
9 fences as required pursuant to section 135J.4."
10 3. Page 2, line 17, by inserting after the word
11 "beaches." the following: "The safety standards for
12 swimming pools, including swimming pools intended for
13 single family use, shall require the installation of a
14 safety fence surrounding a swimming pool. For the
15 purpose of this subsection, "safety fence" means a
16 chain link or wood fence which is a minimum of four
17 feet in height."

By CALVIN O. HULTMAN
RICHARD F. DRAKE

S-3169 FILED MARCH 3, 1989

**SENATE FILE 214
FISCAL NOTE**

A fiscal note for SENATE FILE 214, AMENDMENT S-3133 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 214 establishes a new Chapter in the Code of Iowa, which allows the Department of Public Health (DPH) to register and regulate swimming pools, spas, and bathing beaches. DPH may inspect, establish safety and sanitation criteria, collect fees, and adopt rules concerning pools, spas, and beaches. Amendment S-3133 establishes the amount of the fees to be collected by DPH.

ASSUMPTIONS:

1. There are approximately 1,500 facilities to be inspected/regulated.
2. Revenues will be generated by imposing inspection fees on existing facilities and for plan review and construction permits.
3. Ten FTE positions will be necessary for program operation.

FISCAL EFFECT:

	<u>FY 1990</u>	<u>FY 1991</u>
<u>REVENUE</u>		
General Fund	\$ 475,775	\$ 457,775
Total	\$ 475,775	\$ 457,775
<u>EXPENDITURES</u>		
Salaries	\$ 282,217	\$ 296,372
Support	\$ 62,652	\$ 65,784
(FTE's)	(10.0)	(10.0)
Other - Equipment	37,400	8,451
Total	\$ 382,269	\$ 370,607
 <u>NET EFFECT</u>	 \$ <u>93,506</u>	 \$ <u>87,168</u>

Source: Department of Public Health

(LSB 1138sv.2, RRS)

FILED MARCH 3, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 214

S-3133

1 Amend Senate File 214 as follows:

2 1. Page 1, line 7, by inserting after the word
3 "includes" the following: "that portion of".

4 2. Page 1, line 9, by inserting after the word
5 "appurtenances" the following: "so designated".

6 3. Page 1, line 32, by inserting after the word
7 "with" the following: "a local board of health or
8 multiple".

9 4. Page 1, line 33, by inserting after the word
10 "health" the following: "representing contiguous
11 areas".

12 5. Page 2, line 1, by striking the words "or spa"
13 and inserting the following: ", spa, or bathing
14 beach".

15 6. Page 2, by striking lines 6 and 7, any
16 inserting the following: "regulating the operation of
17 swimming pools, spas, and bathing beaches. The
18 department shall conduct".

19 7. Page 2, by striking lines 20 through 24 and
20 inserting the following:

21 "4. Collect fees as established pursuant to the
22 following schedule:

23 a. A fee of three hundred fifty dollars for the
24 inspection, regulation, and registration of a class
25 "A" pool. As used in this paragraph, "class "A" pool"
26 means a pool which is larger than fifteen hundred
27 square feet.

28 b. A fee of two hundred fifty dollars for the
29 inspection, regulation, and registration of a class
30 "B" pool. As used in this paragraph "class "B" pool"
31 means a pool which is fifteen hundred square feet or
32 smaller.

33 c. A fee of one hundred dollars for the
34 inspection, regulation, and registration of a special
35 category of areas including but not limited to wading
36 pools and spas which are inspected, regulated, and
37 registered pursuant to this chapter.

38 d. Notwithstanding the fee under paragraph "c", a
39 fee of seventy-five dollars for the inspection,
40 regulation, and registration of a specialty category
41 area including but not limited to wading pools and
42 spas, if a class "A" or class "B" pool is located in
43 the same facility and is being inspected
44 simultaneously.

45 e. A fee of two hundred fifty dollars for the
46 inspection, regulation, and registration of a bathing
47 beach.

48 Notwithstanding the fee schedule established in
49 this subsection, if a local board of health or
50 multiple boards of health in a contiguous area enter

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Page 2

1 into an agreement pursuant to chapter 28E to provide
 2 for inspection and enforcement in accordance with this
 3 chapter, the local board or boards may establish a fee
 4 schedule and collect fees in accordance with the
 5 schedule. However, the fees established shall not
 6 exceed those established in paragraphs "a" through
 7 "e".

8 8. Page 2, line 27, by inserting after the word
 9 "fees" the following: "in accordance with the
 10 schedule prescribed in subsection 4".

11 9. By striking page 2, line 31 through page 3,
 12 line 4 and inserting the following:

13 "6. Enter into agreements with a local board of
 14 health or local boards of health in a contiguous area
 15 to implement the inspection and enforcement provisions
 16 of this chapter. The agreements shall provide that
 17 the fees established by the local board or boards of
 18 health for inspection and enforcement shall be
 19 retained by the local board or boards. A local board
 20 of health or boards of health in a contiguous area may
 21 enter into such an agreement with the department.
 22 However, inspection fees shall not be charged by".

23 10. Page 3, line 15, by inserting after the word
 24 "board" the following: "or boards".

25 11. Page 3, line 19, by inserting after the word
 26 "board" the following: "or boards".

33d 27 12. Page 3, by striking line 23 and inserting the
 28 following: "board or boards of health, the department
 29 or the local board or boards of health".

30 13. Page 3, line 29, by inserting after the word
 31 "board" the following: "or boards".

By COMMITTEE ON WAYS AND MEANS
 WILLIAM W. DIELEMAN, Chairperson

S-3133 FILED FEBRUARY 28, 1989

Out of order 4-13-89 (p.1425)

SENATE FILE 214

S-3295

1 Amend amendment, S-3133, to Senate File 214 as
 2 follows:

3 1. Page 2, line 19, by inserting after the word
 4 "boards" the following: ", however, the department
 5 may require a local board or boards to remit the
 6 portion of the fees necessary to cover the costs of
 7 the department for monitoring and certifying local
 8 programs and for engineering, training, and public
 9 education support services".

By ELAINE SZYMONIAK

S-3295 FILED MARCH 16, 1989

Out of order 4-13-89 (p.1425)

1989 REGULAR SESSION
DAILY
SENATE CLIP SHEET

APRIL 10, 1989

SENATE FILE 214

S-3595

1 Amend Senate File 214 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 135J.1 DEFINITIONS.

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

7 1. "Department" means the Iowa department of
8 public health.

9 2. "Local board of health" means a county, city,
10 or district board of health as defined in section
11 137.2.

12 3. "Swimming pool" means an artificial basin and
13 its appurtenances, either constructed or operated for
14 swimming, wading, or diving, and includes a swimming
15 pool, wading pool, waterslide, or associated
16 bathhouse.

17 4. "Spa" means a bathing facility such as a hot
18 tub or whirlpool designed for recreational or
19 therapeutic use. However, "spa" does not include a
20 facility used under direct supervision of qualified
21 medical personnel.

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

23 This chapter applies to all swimming pools and spas
24 owned or operated by local or state government, or
25 commercial interests or private entities including,
26 but not limited to, facilities operated by cities,
27 counties, public or private school corporations,
28 hotels, motels, camps, apartments, condominiums, and
29 health or country clubs. This chapter does not apply
30 to facilities intended for single family use. To
31 avoid duplication and promote coordination of
32 inspection activities, the department may enter into
33 agreements pursuant to chapter 28E with local boards
34 of health to provide for inspection and enforcement in
35 accordance with this chapter.

36 Sec. 3. NEW SECTION. 135J.3 REGISTRATION
37 REQUIRED.

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

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

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

48 1. Inspect, at the time of installation and
49 periodically thereafter, all swimming pools and spas
50 for the purpose of detecting and eliminating health or

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Page 2

1 safety hazards.
2 2. Establish minimum safety and sanitation
3 criteria for the operation and use of swimming pools
4 and spas.
5 3. Establish minimum qualifications for swimming
6 pool, spa, and waterslide operators and lifeguards.
7 4. Establish and collect fees to defray the cost
8 of administering this chapter. However, the portion
9 of fees needed to defray the costs of a local board of
10 health in implementing this chapter shall be
11 established by the local board of health.
12 5. Adopt rules in accordance with chapter 17A for
13 the implementation and enforcement of this chapter,
14 and the establishment of fees. The department shall
15 appoint an advisory committee composed of owners,
16 operators, local officials, and representatives of the
17 public to advise it in the formulation of appropriate
18 rules.
19 6. Enter into agreements with local boards of
20 health to implement the inspection and enforcement
21 provisions of this chapter. The agreements shall
22 provide that the fees necessary to cover costs of
23 inspection and enforcement by the local board of
24 health shall be retained by the board and the portion
25 of the fees necessary to cover the costs of the
26 department shall be collected and remitted to the
27 department. A local board of health may enter into
28 such an agreement with the department. However,
29 inspection fees shall not be charged by the department
30 for facilities which are inspected by third-party
31 authorities. Third-party authorities shall be
32 approved by the department. The department shall
33 monitor and certify the inspection and enforcement
34 programs of local boards of health and approved third-
35 party authorities.
36 Sec. 5. NEW SECTION. 135J.5 PENALTY.
37 A person who violates a provision of this chapter
38 commits a simple misdemeanor. Each day upon which a
39 violation occurs constitutes a separate violation.
40 Sec. 6. NEW SECTION. 135J.6 ENFORCEMENT.
41 If the department or a local board of health acting
42 pursuant to agreement with the department determines
43 that a provision of this chapter or a rule adopted
44 pursuant to this chapter has been or is being
45 violated, the department or the local board of health
46 may order that a facility or item of equipment not be
47 used until the necessary corrective action has been
48 taken. The department or the local board of health
49 may request the county attorney to bring appropriate
50 legal proceedings to enforce this chapter, including

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1 an action to enjoin violations. The attorney general
2 may also institute appropriate legal proceedings at
3 the request of the department. This remedy is in
4 addition to any other legal remedy available to the
5 department or a local board of health.

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

8 NEW SUBSECTION. 13. A claim relating to a
9 swimming pool or spa as defined in section 135J.1
10 which has been inspected in accordance with chapter
11 135J, or a swimming pool or spa inspection program,
12 which has been established or certified by the state
13 in accordance with that chapter, unless the claim is
14 based upon an act or omission of an officer or
15 employee of the state and the act or omission
16 constitutes actual malice or a criminal offense.

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

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

30 2. Title page, line 2, by striking the words "
31 spas, and bathing beaches" and inserting the
32 following: "and spas".

By WALLY E. HORN

S-3595 FILED APRIL 7, 1989

adopted 4-13-89 (p. 1425)

SENATE FILE 214

S-3361

1 Amend the amendment, S-3133, to Senate File 214 as
2 follows:

3 1. Page 2, by striking lines 27 through 29, and
4 inserting the following:

5 " . Page 3, by striking lines 23 through 27 and
6 inserting the following: "board or boards of health,
7 the department or local board or boards of health may
8 request that the county attorney bring appropriate
9 legal proceedings to enforce this chapter, including
10 an action to enjoin violations. The attorney general
11 may also institute appropriate legal proceedings at
12 the request of the department. This remedy is in
13 addition to"."

By WALLY HORN

S-3361 FILED MARCH 21, 1989

Out of Order 4-13-89 (p.145)

SENATE FILE 214
FISCAL NOTE

A fiscal note for SENATE FILE 214 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 214 establishes a new Chapter in the Code of Iowa, which allows the Department of Public Health (DPH) to register and regulate swimming pools, spas, and bathing beaches. DPH may inspect, establish safety and sanitation criteria, establish and collect fees, and adopt rules concerning pools, spas, and beaches.

ASSUMPTIONS:

1. There are approximately 1,500 facilities to be inspected/regulated.
2. Revenues will be generated by imposing inspection fees on existing facilities and for plan review and construction permits.
3. Eight FTE positions will be necessary for program operation.

FISCAL EFFECT:

	<u>FY 1990</u>	<u>FY 1991</u>
<u>REVENUE</u>		
General Fund	\$ 339,875	\$ 339,875
Total	\$ 339,875	\$ 339,875
<u>EXPENDITURES</u>		
Salaries	\$ 234,107	\$ 235,182
Support	\$ 49,000	\$ 49,000
(FTE's)	(8.0)	(8.0)
Other - Equipment	17,400	300
Total	\$ 300,507	\$ 284,482
 <u>NET EFFECT</u>	 \$ <u>39,368</u>	 \$ <u>55,393</u>

Source: Department of Public Health

(LSB 1138sv, RRS)

FILED FEBRUARY 20, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

HORN, CH.
HANNON
HAGERLA

SSB 95
HUMAN RESOURCES
11016

SENATE FILE 214
BY (PROPOSED DEPARTMENT
OF PUBLIC HEALTH BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the registration, regulation, and inspection
2 of swimming pools and spas, and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

4 1. "Department" means the Iowa department of public
5 health.

6 2. "Local board of health" means a county, city, or
7 district board of health as defined in section 137.2.

8 3. "Swimming pool" means an artificial basin and its
9 appurtenances, either constructed or operated for swimming,
10 wading, or diving, and includes a swimming pool, wading pool,
11 waterslide, or associated bathhouse.

12 4. "Spa" means a bathing facility such as a hot tub or
13 whirlpool designed for recreational or therapeutic use.
14 However, "spa" does not include a facility used under direct
15 supervision of qualified medical personnel.

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

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

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

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

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

33 The department is responsible for registering and
34 regulating the operation of swimming pools and spas. The
35 department shall conduct seminars and training sessions, and

1 disseminate information regarding health practices, safety
2 measures, and operating procedures required under this
3 chapter. The department may:

4 1. Inspect, at the time of installation and periodically
5 thereafter, all swimming pools and spas for the purpose of
6 detecting and eliminating health or safety hazards.

7 2. Establish minimum safety and sanitation criteria for
8 the operation and use of swimming pools and spas.

9 3. Establish minimum qualifications for swimming pool,
10 spa, and waterslide operators and lifeguards.

11 4. Establish and collect fees to defray the cost of
12 administering this chapter. However, the portion of fees
13 needed to defray the costs of a local board of health in
14 implementing this chapter shall be established by the local
15 board of health.

16 5. Adopt rules in accordance with chapter 17A for the
17 implementation and enforcement of this chapter, and the
18 establishment of fees. The department shall appoint an
19 advisory committee composed of owners, operators, local
20 officials, and representatives of the public to advise it in
21 the formulation of appropriate rules.

22 6. Enter into agreements with local boards of health to
23 implement the inspection and enforcement provisions of this
24 chapter. The agreements shall provide that the fees necessary
25 to cover costs of inspection and enforcement by the local
26 board of health shall be retained by the board and the portion
27 of the fees necessary to cover the costs of the department
28 shall be collected and remitted to the department. A local
29 board of health may enter into such an agreement with the
30 department. However, inspection fees shall not be charged by
31 the department for facilities which are inspected by third-
32 party authorities. Third-party authorities shall be approved
33 by the department. The department shall monitor and certify
34 the inspection and enforcement programs of local boards of
35 health and approved third-party authorities.

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

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

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

6 If the department or a local board of health acting
7 pursuant to agreement with the department determines that a
8 provision of this chapter or a rule adopted pursuant to this
9 chapter has been or is being violated, the department or the
10 local board of health may order that a facility or item of
11 equipment not be used until the necessary corrective action
12 has been taken. If the facility or equipment continues to be
13 used in violation of the order of the department or the local
14 board of health, the department or the local board of health
15 may request that the county attorney or the attorney general
16 make an application in the name of the state to the district
17 court of the county in which the violation has occurred for an
18 order to enjoin the violation. This remedy is in addition to
19 any other legal remedy available to the department or a local
20 board of health.

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

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

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

33 NEW SUBSECTION. 12. A claim relating to a swimming pool
34 or spa as defined in section 135J.1 which has been inspected
35 by a municipality or the state in accordance with chapter

1 135J, or a swimming pool or spa inspection program which has
2 been certified by the state in accordance with that chapter,
3 whether or not owned or operated by a municipality, unless the
4 claim is based upon an act or omission of an officer or
5 employee of the municipality and the act or omission
6 constitutes actual malice or a criminal offense.

7
8 EXPLANATION

9 This bill establishes a new chapter, tentatively numbered
10 135J, which allows the Iowa department of public health to
11 register and regulate swimming pools and spas. The department
12 may inspect pools and spas upon installation and periodically
13 thereafter; establish minimum safety and sanitation criteria
14 for operation of pools and spas; establish minimum
15 qualifications for pool, spa, and waterslide operators and
16 lifeguards; establish and collect fees to defray the costs
17 incurred under the chapter; and adopt rules and enter into
18 agreements with local boards of health and third-party
19 authorities to implement the provisions of the chapter. The
20 bill provides for enforcement of the chapter and provides
21 penalties. The bill also exempts claims relating to a
22 swimming pool or spa, or a swimming pool or spa inspection
23 program which has been established or certified by the state,
24 from the provisions of the state tort claims Act and from the
25 tort liability of governmental subdivisions. However, the
26 exemption does not apply if the claim is based upon an act or
27 omission of an officer or employee if the act or omission
28 constitutes actual malice or a criminal offense.

28 BACKGROUND STATEMENT

29 SUBMITTED BY THE AGENCY

30 Serious accidents are occurring and infectious diseases are
31 being transmitted at Iowa's 1700 swimming facilities. Each
32 year, the department collects additional reports of pustular
33 rashes; dermatitis; respiratory diseases; head, brain and
34 spinal cord injuries; and drownings. Drowning is the third
35 leading cause of death for children under five nationwide.

1 Iowa is the only state without the statutory authority to
2 regulate safety standards for swimming facilities.

3 Many of the conditions that put the approximately 25
4 million annual patrons of Iowa's public swimming facilities at
5 risk for injury and disease can be eliminated or reduced by
6 adhering to minimum safety standards.

7 With encouragement and advice from pool owners, engineers,
8 and health officials, the department proposes to establish
9 minimum safety standards, to register and inspect swimming
10 pools and spas, and to provide technical assistance regarding
11 health practices, safety measures, and operating procedures.

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