

*reprinted*

FEB 21 1989

HOUSE FILE 373  
BY COMMITTEE ON  
HUMAN RESOURCES

Place On Calendar

(SUCCESSOR TO HSB 208)

Passed House, Date 4-5-89 Passed Senate, Date \_\_\_\_\_  
Vote: Ayes 78 Nays 21 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

*3253* 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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HF 373

HOUSE FILE 373

H-3260

1 Amend House File 373 as follows:  
2 1. Page 3, by striking lines 12 through 18 and  
3 inserting the following: "has been taken. The de-  
4 partment or the local board of health may request the  
5 county attorney to bring appropriate legal proceedings  
6 to enforce this chapter, including an action to enjoin  
7 violations. The attorney general may also institute  
8 appropriate legal proceedings at the request of the  
9 department. This remedy is in addition to".

By CHAPMAN of Linn

H-3260 FILED FEBRUARY 28, 1989  
*Adopted 4-5-89, p. 1264*

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

2 As used in this chapter, unless the context otherwise

3253 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.

3253 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.

3253 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:

32534 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.

32537 2. Establish minimum safety and sanitation criteria for  
8 the operation and use of swimming pools and spas.

32539 3. Establish minimum qualifications for swimming pool,  
10 spa, and waterslide operators and lifeguards.

3792-11 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.

3792-16 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.

3792-22 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.

3145- 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  
325324 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:

32633     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.

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EXPLANATION

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

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**HOUSE FILE 373  
FISCAL NOTE**

A fiscal note for **HOUSE FILE 373** 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.

House File 373 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
<b>NET EFFECT</b>	<b>\$ <u>39,368</u></b>	<b>\$ <u>55,393</u></b>

Source: Department of Public Health

(LSB 1138hv, RRS)

FILED FEBRUARY 23, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

## HOUSE FILE 373

H-3792

- 1 Amend House File 373 as follows:  
2 1. Page 2, by striking lines 11 through 15.  
3 2. Page 2, by striking lines 17 through 21, and  
4 inserting the following: "implementation and  
5 enforcement of this chapter."  
6 3. Page 2, by striking lines 24 through 32 and  
7 inserting the following: "chapter. A local board of  
8 health may enter into such an agreement with the  
9 department. Third-party authorities shall be  
10 approved".  
11 4. By renumbering as necessary.

By CORBETT of Linn

H-3792 FILED APRIL 3, 1989

*Lost 4-5-89, p 12&4*

## HOUSE FILE 373

H-3253

1 Amend House File 373 as follows:

2 1. Page 1, by inserting after line 3 the  
3 following:

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

12 2. Page 1, line 17, by striking the words "and  
13 spas" and inserting the following: ", spas, and  
14 bathing beaches".

15 3. Page 1, line 34, by inserting after the word  
16 "spas" the following: ", and for regulating bathing  
17 beaches".

18 4. Page 2, line 4, by inserting after the word  
19 "installation" the following: "or establishment".

20 5. Page 2, line 5, by striking the words "and  
21 spas" and inserting the following: ", spas, and  
22 bathing beaches".

23 6. Page 2, line 8, by striking the words "and  
24 spas" and inserting the following: ", spas, and  
25 bathing beaches".

26 7. Page 2, line 10, by inserting after the word  
27 "spa," the following: "bathing beach,".

28 8. Page 3, line 24, by striking the words "or  
29 spa" and inserting the following: ", spa, or bathing  
30 beach".

31 9. Page 3, line 25, by striking the words "or  
32 spa" and inserting the following: ", spa, or bathing  
33 beach".

34 10. Page 3, line 34, by striking the words "or  
35 spa" and inserting the following: ", spa, or bathing  
36 beach".

37 11. Page 4, line 1, by striking the words "or  
38 spa" and inserting the following: ", spa, or bathing  
39 beach".

40 12. Title page, line 2, by striking the words  
41 "and spas" and inserting the following: "spas, and  
42 bathing beaches".

43 13. By renumbering as necessary.

By DVORSKY of Johnson

H-3253 FILED FEBRUARY 28, 1989

Lost - NOT DeMare 4-5-89, p 1243



HOUSE FILE 373  
BY COMMITTEE ON  
HUMAN RESOURCES

(SUCCESSOR TO HSB 208)

(As Amended and Passed by the House April 5, 1989)

Re Passed House, Date 4-24-89 (p1819) Passed Senate, Date 4-18-89 (p1505)  
Vote: Ayes 78 Nays 21 Vote: Ayes 40 Nays 5  
Approved June 2, 1989

A BILL FOR

*Repassed the Senate*  
5-1-89 (p1805)  
AP 538 Nays 12

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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House Amendments \_\_\_\_\_

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

2 As used in this chapter, unless the context otherwise

3 *305* 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.

*305*-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  
*374*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.

*305*-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.

*305*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:

3695-4 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  
3695-8 the operation and use of swimming pools and spas.

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

3741, 3695-11 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  
3741/18 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.

374/22 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.

31416 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. The department or the local board of health  
13 may request the county attorney to bring appropriate legal  
14 proceedings to enforce this chapter, including an action to  
15 enjoin violations. The attorney general may also institute  
16 appropriate legal proceedings at the request of the  
17 department. This remedy is in addition to any other legal  
18 remedy available to the department or a local board of health.

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

31415-21 NEW SUBSECTION. 13. A claim relating to a swimming pool  
22 or spa as defined in section 135J.1 which has been inspected  
23 in accordance with chapter 135J, or a swimming pool or spa  
24 inspection program, which has been established or certified by  
25 the state in accordance with that chapter, unless the claim is  
26 based upon an act or omission of an officer or employee of the  
27 state and the act or omission constitutes actual malice or a  
28 criminal offense.

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

31415-31 NEW SUBSECTION. 12. A claim relating to a swimming pool  
32 or spa as defined in section 135J.1 which has been inspected  
33 by a municipality or the state in accordance with chapter  
34 135J, or a swimming pool or spa inspection program which has  
35 been certified by the state in accordance with that chapter,

1 whether or not owned or operated by a municipality, unless the  
2 claim is based upon an act or omission of an officer or  
3 employee of the municipality and the act or omission  
4 constitutes actual malice or a criminal offense.

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## HOUSE FILE 373

S-3695

Amend House File 373, as amended, passed, and reprinted by the House, as follows:

- 3 1. Page 1, by inserting after line 3 the  
4 following:  
5 " \_\_\_\_\_. "Public bathing beach" means a body of water  
6 or portion of the body of water not contained within a  
7 chamber or tank designated by marked boundaries such  
8 as fences or buoys and used for recreational swimming  
9 or bathing. "Public bathing beach" includes the  
10 shores, buildings, and equipment pertaining to such  
11 areas."
- 12 2. Page 1, line 17, by striking the words "and  
13 spas" and inserting the following: ", spas, and  
14 public bathing beaches".
- 15 3. Page 1, line 29, by striking the words "or  
16 spa" and inserting the following: ", spa, or public  
17 bathing beach".
- 18 4. Page 1, line 34, by striking the words "and  
19 spas" and inserting the following: "spas, and public  
20 bathing beaches".
- 21 5. Page 2, line 4, by inserting after the word  
22 "installation" the following: "or establishment".
- 23 6. Page 2, line 5, by striking the words "and  
24 spas" and inserting the following: ", spas, and  
25 public bathing beaches".
- 26 7. Page 2, line 8, by striking the words "and  
27 spas" and inserting the following: ", spas, and  
28 public bathing beaches".
- 29 8. Page 2, line 10, by inserting after the word  
30 "spa," the following: "public bathing beach,".
- 31 9. Page 3, line 22, by striking the words "or  
32 spa" and inserting the following: ", spa, or public  
33 bathing beach".
- 34 10. Page 3, line 23, by striking the words "or  
35 spa" and inserting the following: ", spa, or public  
36 bathing beach".
- 37 11. Page 3, line 32, by striking the words "or  
38 spa" and inserting the following: ", spa, or public  
39 bathing beach".
- 40 12. Page 3, line 34, by striking the words "or  
41 spa" and inserting the following: ", spa, or public  
42 bathing beach".
- 43 13. Title page, line 2, by striking the words  
44 "and spas" and inserting the following: "spas, and  
45 public bathing beaches".
- 46 14. By renumbering as necessary.

By BOB M. CARR

S-3695 FILED APRIL 13, 1989

*Withdrawn 4-89*

## HOUSE FILE 373

S-3741

Amend House File 373, as amended, passed, and reprinted by the House, as follows:

1. Page 1, by striking line 26 and inserting the following: "to chapter 28E with a local board of health or multiple boards of health representing contiguous areas to provide for".

2. Page 2, by striking lines 11 through 15 and inserting the following:

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

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

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

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

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

Notwithstanding the fee schedule established in this subsection, if a local board of health or multiple boards of health in a contiguous area enter into an agreement pursuant to chapter 28E to provide for inspection and enforcement in accordance with this chapter, the local board or boards may establish a fee schedule and collect fees in accordance with that schedule. However, the fees established shall not exceed those fees established in paragraphs "a" through "e".

3. Page 2, line 18, by inserting after the word "fees" the following: "in accordance with the schedule prescribed in subsection 4".

4. Page 2, by striking lines 22 through 30 and inserting the following:

"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

A  
1 of this chapter. The agreements shall provide that  
2 the fees established by the local board or boards of  
3 health for inspection and enforcement shall be  
4 retained by the local board or boards. A local board  
5 of health or boards of health in a contiguous area may  
6 enter into such an agreement with the department.  
7 However, inspection fees shall not be charged by".  
8 5. Page 3, line 6, by inserting after the word  
9 "board" the following: "or boards".  
10 6. Page 3, line 10, by inserting after the word  
11 "board" the following: "or boards".  
12 7. Page 3, line 18, by inserting after the word  
13 "board" the following: "or boards".  
14 8. By renumbering as necessary.

By LINN FUHRMAN  
JULIA GENTLEMAN

S-3741 FILED APRIL 17, 1989

3741A - Adopted 4-18-89 (p. 1504)

3741B - Adopted 4-18-89 (p. 1504)



SENATE AMENDMENT TO HOUSE FILE 373

H-4131

1 Amend House File 373, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 1, by striking line 26 and inserting the  
4 following: "to chapter 28E with a local board of  
5 health or multiple boards of health representing  
6 contiguous areas to provide for".

7 2. Page 2, by striking lines 11 through 15 and  
8 inserting the following:

9 "4. Collect fees as established pursuant to the  
10 following schedule:

11 a. A fee of three hundred fifty dollars for the  
12 inspection, regulation, and registration of a class  
13 "A" pool. As used in this paragraph, "class "A" pool"  
14 means a pool which is larger than fifteen hundred  
15 square feet.

16 b. A fee of two hundred fifty dollars for the  
17 inspection, regulation, and registration of a class  
18 "B" pool. As used in this paragraph "class "B" pool"  
19 means a pool which is fifteen hundred square feet or  
20 smaller.

21 c. A fee of one hundred dollars for the  
22 inspection, regulation, and registration of a special  
23 category of areas including but not limited to wading  
24 pools and spas which are inspected, regulated, and  
25 registered pursuant to this chapter.

26 d. Notwithstanding the fee under paragraph "c", a  
27 fee of seventy-five dollars for the inspection,  
28 regulation, and registration of a specialty category  
29 area including but not limited to wading pools and  
30 spas, if a class "A" or class "B" pool is located in  
31 the same facility and is being inspected  
32 simultaneously.

33 Notwithstanding the fee schedule established in  
34 this subsection, if a local board of health or  
35 multiple boards of health in a contiguous area enter  
36 into an agreement pursuant to chapter 28E to provide  
37 for inspection and enforcement in accordance with this  
38 chapter, the local board or boards may establish a fee  
39 schedule and collect fees in accordance with that  
40 schedule. However, the fees established shall not  
41 exceed those fees established in paragraphs "a"  
42 through "e".

43 3. Page 2, line 18, by inserting after the word  
44 "fees" the following: "in accordance with the  
45 schedule prescribed in subsection 4".

46 4. Page 2, by striking lines 22 through 30 and  
47 inserting the following:

48 "6. Enter into agreements with a local board of  
49 health or local boards of health in a contiguous area  
50 to implement the inspection and enforcement provisions

H-4131

Page 2

1 of this chapter. The agreements shall provide that  
2 the fees established by the local board or boards of  
3 health for inspection and enforcement shall be  
4 retained by the local board or boards. A local board  
5 of health or boards of health in a contiguous area may  
6 enter into such an agreement with the department.  
7 However, inspection fees shall not be charged by".  
8 5. Page 3, line 6, by inserting after the word  
9 "board" the following: "or boards".  
10 6. Page 3, line 10, by inserting after the word  
11 "board" the following: "or boards".  
12 7. Page 3, line 18, by inserting after the word  
13 "board" the following: "or boards".  
14 8. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-4131 FILED APRIL 20, 1989

*House Concurred 4-24-89 (p.1819)*

HOUSE FILE 373

H-4150

1 Amend the Senate amendment, H-4131, to House File  
2 373, as amended, passed, and reprinted by the House,  
3 as follows:

- 4 1. Page 1, by striking lines 7 through 45.  
5 2. By renumbering as necessary.

By HAVERLAND of Polk

H-4150 FILED APRIL 21, 1989

*Adopted 4-24-89 (p. 1819)*

HOUSE AMENDMENT TO SENATE AMENDMENT  
TO HOUSE FILE 373

S-3899

1 Amend the Senate amendment, H-4131, to House File  
2 373, as amended, passed, and reprinted by the House,  
3 as follows:

- 4 1. Page 1, by striking lines 7 through 45.  
5 2. By renumbering as necessary.

RECEIVED FROM THE HOUSE

*Senate concurred 5-1-89 (p. 1805)*

S-3899 FILED APRIL 25, 1989

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HSB 144

HOUSE BILL

*1941*

HOUSE FILE 213  
BY (PROPOSED DEPARTMENT  
OF PUBLIC HEALTH BILL)

*Levy  
Hammond  
Shuckland  
Nechem  
Plasier  
Carpenter  
Hester*

Passed House, Date \_\_\_\_\_ Passed Senate, 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, and the department shall inspect  
32 the swimming pool or spa prior to the initial registration and  
33 the renewal registration.

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

35 The department is responsible for registering and

1 regulating the operation of swimming pools and spas. The  
2 department shall conduct seminars and training sessions, and  
3 disseminate information regarding health practices, safety  
4 measures, and operating procedures required under this  
5 chapter. The department may:

6 1. Inspect, at the time of installation and prior to  
7 registration, and periodically thereafter, all swimming pools  
8 and spas for the purpose of detecting and eliminating health  
9 or safety hazards.

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

12 3. Establish minimum qualifications for swimming pool,  
13 spa, and waterslide operators and lifeguards.

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

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

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

1 limited to local health departments and national accreditation  
2 organizations, shall be defined by the department and are  
3 subject to approval by the department. The department shall  
4 monitor and certify the inspection and enforcement programs of  
5 local boards of health and approved third-party authorities.

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

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

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

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

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

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

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

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

12

#### EXPLANATION

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

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#### BACKGROUND STATEMENT

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#### SUBMITTED BY THE AGENCY

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Serious accidents are occurring and infectious diseases are



1 being transmitted at Iowa's 1700 swimming facilities. Each  
2 year, the department collects additional reports of pustular  
3 rashes; dermatitis; respiratory diseases; head, brain and  
4 spinal cord injuries; and drownings. Drowning is the third  
5 leading cause of death for children under five nationwide.

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

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

12 With encouragement and advice from pool owners, engineers,  
13 and health officials, the department proposes to establish  
14 minimum safety standards, to register and inspect swimming  
15 pools and spas, and to provide technical assistance regarding  
16 health practices, safety measures, and operating procedures.

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HUMAN RESOURCES

*Handwritten initials*

HOUSE FILE 373

BY (PROPOSED COMMITTEE ON  
HUMAN RESOURCES BILL)

*Fey, Chair  
Hammond  
Haverland  
Nelson  
Plasch  
Carpenter  
Hester*

Passed House, Date \_\_\_\_\_ Passed Senate, 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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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 EXPLANATION

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

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HOUSE FILE 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, waterslide, 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. 11. 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.

.....  
DONALD D. AVENSON  
Speaker of the House

.....  
JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 373, Seventy-third General Assembly.

.....  
JOSEPH O'HEARN  
Chief Clerk of the House

Approved *June 7*, 1989

.....  
TERRY E. BRANSTAD  
Governor