

2.1 Subd. 6. **Least restrictive occupational regulation.** "Least restrictive occupational
2.2 regulation" means, from least to most restrictive:

2.3 (1) a provision for private civil action to remedy consumer harm;

2.4 (2) inspection;

2.5 (3) bonding or requirement to carry insurance;

2.6 (4) registration;

2.7 (5) certification; or

2.8 (6) licensing.

2.9 Subd. 7. **License.** "License" is a nontransferable authorization for an individual to
2.10 perform an occupation for compensation based on meeting:

2.11 (1) predetermined qualifications established by a legislative body, such as
2.12 satisfactory completion of an approved education program and acceptable performance on
2.13 a qualifying examination or series of examinations; and

2.14 (2) continuing education qualifications.

2.15 It is illegal for nonlicensed individuals to perform the occupation for compensation. A
2.16 license is the most restrictive form of occupational regulation.

2.17 Subd. 8. **Occupational regulation.** "Occupational regulation" means a statute, rule,
2.18 practice, policy, or other government-prescribed requirement for an individual to work
2.19 in a lawful occupation. Occupational regulation excludes regulations not related to an
2.20 individual's qualifications to perform an occupation for compensation, such as a business
2.21 license, permit, franchise, building permit, or land use regulation.

2.22 Subd. 9. **Registration.** "Registration" means a requirement established by a
2.23 legislative body in which an individual (1) submits notification to a state agency or
2.24 political subdivision, and (2) may use "registered" as a designated title. Notification
2.25 may include the individual's name and address, the individual's agent for service of
2.26 process, the location of the activity to be performed, and a description of the service the
2.27 individual provides. Registration does not include education or experience requirements.
2.28 Registration may include a requirement to maintain a bond or insurance. Nonregistered
2.29 individuals may not perform the occupation for compensation or use "registered" as a
2.30 designated title. For purposes of this chapter, the term registration is not intended to be
2.31 synonymous with "licensing" or "license."

2.32 Subd. 10. **Substantial burden.** "Substantial burden" means a legal or other
2.33 regulatory obstacle that imposes significant difficulty or cost on an individual seeking
2.34 to enter into or continue in a lawful occupation. A substantial burden is a burden that
2.35 is more than incidental.

3.1 Sec. 2. [213.02] RIGHT TO ENGAGE IN A LAWFUL OCCUPATION.

3.2 Subdivision 1. Statutory right. An individual has a right to engage in a lawful
3.3 occupation free from any substantial burden, unless the government demonstrates (1)
3.4 it has a compelling interest in protecting against present and recognizable harm to the
3.5 public health or safety, and (2) the occupational regulation is the least restrictive means of
3.6 furthering that compelling interest.

3.7 Subd. 2. Defense and relief. (a) An individual may assert as a defense the right to
3.8 engage in a lawful occupation in any judicial or administrative proceeding to enforce an
3.9 occupational regulation that violates subdivision 1.

3.10 (b) An individual may bring an action for declaratory judgment or injunctive or other
3.11 equitable relief for a violation of subdivision 1.

3.12 (c) An individual may assert as a defense or bring an action against the enforceability
3.13 of an occupational regulation, pursuant to paragraphs (a) and (b), which is:

3.14 (1) in law at the effective date of this act; or

3.15 (2) enacted, adopted, or amended after the effective date of this act and does not
3.16 include in statute an explicit exemption from this chapter.

3.17 (d) An individual who asserts a defense or brings an action under this section has
3.18 the initial burden of proof that an occupational regulation substantially burdens the
3.19 individual's right to engage in a lawful occupation.

3.20 (e) If the individual meets the burden of proof under paragraph (d), the government
3.21 must demonstrate by clear and convincing evidence that the government has a compelling
3.22 interest in protecting against present and recognizable harm to the public health or safety
3.23 and the occupational regulation is the least restrictive means for furthering that compelling
3.24 interest.

3.25 Subd. 3. Judicial determination. A court shall liberally construe this chapter to
3.26 protect the right established in subdivision 1. A court shall make its own findings of fact
3.27 and conclusions of law. It shall not grant any presumption to legislative or administrative
3.28 determinations of harm to the public health or safety, or that the regulation is the least
3.29 restrictive means of furthering a compelling governmental interest.

3.30 Sec. 3. [213.03] EXEMPTIONS.

3.31 This chapter does not apply to occupational regulation of an individual who is (1)
3.32 an employee of the government, (2) a fiduciary whose fiduciary status is recognized in
3.33 statute, or (3) required by federal law to be subject to occupational regulation in order to
3.34 engage in a lawful occupation.

4.1 Sec. 4. **[213.04] NO CHANGE TO COLLECTIVE BARGAINING RIGHTS.**

4.2 The right established by this chapter does not change the right to collective
4.3 bargaining as established in sections 179.10 and 179A.06.