

REGULATIONS RELATING TO THE CERTIFICATION OF GINSENG

Adopted September 16, 1988,
Revised XXXX, 2013.

SEC. I. STATUTORY AUTHORITY.

The Secretary of Agriculture, Food & Markets is authorized by 6 V.S.A. § 4029 to promulgate ~~regulations~~ rules regarding the inspection of nurseries and nursery stock and to control the collection, sale or distribution of nursery stock and plants taken from the wild.

SEC. II. DEFINITIONS.

- 2a. "Collecting Wild Ginseng" means cutting, gathering, rooting, severing, injuring, destroying, removing, taking, or carrying away any wild ginseng plants, roots, seeds, or other parts thereof.
3. "Secretary" means the Vermont Secretary of Agriculture or his or her designee.
4. "Cultivated ginseng" means ginseng growing in prepared beds under the shade of artificial structures, transplanted from its original location, or manipulated by horticultural practices.
5. "Agency" means the Vermont Agency of Agriculture, Food & Markets.
6. "Foreign ginseng" means ginseng not originating from within the borders of the State of Vermont.
7. "Ginseng" means the roots in whole, in part, or in any form of American Ginseng "~~(panax quinquefolius *Panax quinquefolius* L.)~~".
8. "Ginseng Collector" means a person who collects ginseng.
9. "Ginseng Collector's Permit" means the permit issued by the Secretary which enables a person to collect wild ginseng within this state between ~~August 20~~ September 1 and October 10 of a given year when done in accordance with 6 V.S.A. Chapter 206 and these ~~regulations~~ rules.
10. "Ginseng Dealer" means any person engaged in the business of buying or obtaining wild ginseng roots from collectors of wild ginseng for the purpose of resale or distribution to consumers, other ginseng dealers,

- exporters, or to any person who sells ginseng in any form in interstate or international commerce.
11. "Ginseng Dealer's Permit" means the permit issued by the Secretary which enables a person to act as a ginseng dealer within this state when done in accordance with 6 V.S.A. Chapter 206 and these regulations rules.
 12. "Green ginseng" means a ginseng root from which the moisture has not been removed by drying.
 17. "Person" means any individual, partnership, corporation or other business entity.
 18. "Wild Ginseng" means ginseng growing, living or found in a natural state, and for the purposes of this rule, includes wild-simulated ginseng.
 19. "Wild-Simulated Ginseng" means ginseng grown from cultivated seeds planted in hardwood forests without any other human intervention (e.g. removal of vegetation, application of fertilizers, pesticides), has wild ginseng-like characteristics, and therefore is for all practical purposes, indistinguishable from wild ginseng.

SEC. IV. POWERS OF THE SECRETARY.

1. Suspension or Revocation of Licenses and Certificates.
 - (a) The Secretary may amend, suspend or revoke any license or certificate issued under the authority of 6 V.S.A. Chapter 206 and these regulations for failure of the holder to comply with any of the provisions of that chapter or the regulations promulgated thereunder.
 - (b) In the event the Secretary has reason to believe that the activities or conditions of any person or facility licensed or certificated under the authority of 6 V.S.A. Chapter 206 or the regulations promulgated thereunder may pose an immediate and substantial threat to human or animal life or health, to the environment, or to other nursery dealers, he or she may suspend any license or certificate pending inquiry, for no longer than fifteen (15) days, providing that opportunity for a hearing is given prior to the end of such period. If the person affected by such suspension cannot attend a hearing within that fifteen day period, the suspension shall remain in effect until the date of such hearing.

Following a hearing, if the Secretary determines that reinstatement of the suspended license or certificate might pose a threat to human or animal life or health, to the environment, or to other nursery dealers, the Secretary may issue an order continuing the suspension until such time as the problem is corrected, or may revoke or amend the license or certificate in question.

2. Placement of Restrictions, Requirements or Conditions Upon Licenses or Certificates.

The Secretary may place reasonable restrictions, conditions or requirements upon any license or certificate issued under the authority of 6 V.S.A. Chapter 206 or these regulations.

SEC. VIII. COLLECTION, CULTIVATION AND SALE OF AMERICAN GINSENG.

1. Collecting Wild Ginseng

(a) Season.

~~(1)~~(1) Wild ginseng shall only be collected yearly between August 20 September 1 and October 10.

~~(2)~~ The purchase or sale of green ginseng between the 20th day of October and the 19th day of August shall be prima facie evidence of a violation of this section.

~~(3)~~(2) No person shall purchase ginseng knowing the same to have been harvested between the 11th day of October and the 19th 31st day of August.

(b) Maturity.

(1) Only plants with at least three five-leaflet leaves (or three prongs or more) shall be collected.

(2) Plants with green, unripe fruit (seeds) shall not be collected.

(c) Seeds.

Any ripe seed which is found on any wild ginseng at the time of collection shall be planted in the immediate locale from which the root was taken.

2. Ginseng Collectors.

- (a) No person shall collect wild ginseng without first obtaining a permit to do so from the Secretary.
- (b) Collectors are responsible for obtaining permission to collect wild ginseng on property owned by ~~other~~ persons other than themselves. In accordance with applicable laws, collection of ginseng on Vermont State or Federal lands is prohibited.
- (c) Any collector who enters ginseng directly into interstate commerce shall be considered a ginseng dealer under Section II.
- (d) ~~Upon application of the appropriate form, which contains all requested information,~~ receipt of completed forms, the Secretary may issue a Ginseng Collector's Permit. ~~Any such permit~~ Collector's permits shall be valid only from ~~August 20~~ September 1 to October 10 for three consecutive years from, and including, the year of issuance. It shall further provide that any ginseng root collected must be certified by the Secretary before March 31, of the year after collection. The Secretary may ~~refuse to grant, suspend, or revoke,~~ or refuse to issue any collector's permit for any violation of 6 V.S.A. Chapter 206, or these ~~regulations~~ rules.

3. Certification of Roots.

- ~~(a)~~ All ginseng roots intended for export from Vermont shall be certified by the Secretary on or before March 31 of the year after collection ~~by the Secretary before shipment on forms provided by the Agency.~~ Certification shall include weight of shipment. Inspection of roots to verify maturity shall be made at this time. Roots without crown or neck portions may not be certified unless age can be determined.
- ~~(b)~~ Only those roots ten (10) years or older, as determined by counting bud scale scars on necks or by other recognized means, will be eligible for certification.
- ~~(c)~~ Ginseng may not be imported into Vermont without first being certified by the state of origin.
- ~~(d)~~ The Secretary may seize any ~~uncertified~~ ginseng found ~~not found~~ to be in compliance with subsections 1 or 2 of this Section.

4. Ginseng Dealers

- ~~(a)~~(a) Permit - Any ginseng dealer who buys wild or cultivated ginseng in Vermont shall obtain a Ginseng Dealer's Permit from the Secretary. This permit shall be valid for a period of three years.
- ~~(b)~~ Records - All ginseng dealers shall keep records, on forms furnished or approved by the Agency, of all commerce in ginseng. These records will include date of transaction, month collected, county where collected, weight of ginseng bought or sold, and collector/seller's permit number, and signature of seller. These records shall be kept for a period of three years and shall be made available to the Agency upon request.
- ~~(c)~~ Quarterly Report - ~~All ginseng dealers shall submit to the Agency a quarterly report on their ginseng commerce. The report shall be made on forms furnished or approved by the Agency, and must be received or postmarked no later than 15 days of the end of the quarter.~~
- ~~(d)~~(c) Certification - Ginseng dealers when dealing in Vermont ginseng shall handle only ginseng certified in accordance with Section VIII 3. of these regulations.
- ~~(e)~~(d) Foreign ginseng - Ginseng dealers purchasing ginseng from outside of Vermont shall be responsible for documenting compliance with Section VIII 3. of these regulations. Information of improprieties should be reported to the Agency of Agriculture, Food & Markets within five working days.
- ~~(f)~~(e) Denial, Suspension or Revocation of Permits - The Secretary may refuse to grant, suspend or revoke any Ginseng Dealer's Permit for any violation of 6 V.S.A. Chapter 206 or these regulations rules.

SEC. X. PENALTIES.

Pursuant to 6 V.S.A. §4029, any person who violates any provision of 6 V.S.A. Chapter 206 or the regulations promulgated thereunder shall be fined not more than \$100.00 for the first offense and not more than \$500.00 for each subsequent offense. In addition, the Secretary may seek and obtain preliminary and permanent injunctive relief for any violation of the provisions of 6 V.S.A. Chapter 206 or the regulations promulgated thereunder.

SEC. XI. FEES.

Pursuant to 6 V.S.A. § 4029, the Agency of Agriculture, Food and Markets shall charge a licensing fee of XX for a three year license, for either ginseng collectors, dealers, or both. Only one license fee will be collected, regardless of whether the license is for collector, dealer, or a combination license.

If the application is made online, the Agency will charge a reduced fee of (XX-5\$).

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