

## **Section 9-13-240**

### **Findings and purpose.**

The legislature has found that ginseng *Panax quinquefolius* L., is listed as endangered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and as such, must be protected from extinction. The purpose of this article is to provide a mechanism for collection and exportation of ginseng while at the same time preventing the depletion of wild ginseng populations throughout the state.

*(Acts 1987, No. 87-582, §1.)*

## **Section 9-13-241**

### **Definitions.**

As used in this article, the following words shall have the meaning stated below, unless the context clearly requires otherwise:

- (1) BOARD. The state board of agriculture and industries.
- (2) COMMISSIONER. The commissioner of agriculture and industries or his designated representative.
- (3) CULTIVATED GINSENG. Ginseng that has been planted and cultivated by standard horticultural practices.
- (4) DEPARTMENT. The department of agriculture and industries.
- (5) EXPORT. To transport, deliver or cause to be transported or delivered to any person or place for the purpose of transportation from any place in this state to any place outside this state.
- (6) GINSENG. The plant *Panax quinquefolius* L., including cuttings, roots, fruits, seed, propagules or any other portion thereof.
- (7) GINSENG COLLECTOR. Any person who intentionally removes wild ginseng from the location in which the plant grew for the purpose of sale, resale or export.
- (8) GINSENG DEALER. Any person who collects or purchases ginseng for the purpose of reselling, selling, manufacturing or exporting same.
- (9) COLLECT. To dig, cut or otherwise remove any ginseng from the location where it grew for the specific purpose of export.

(10) GINSENG GROWER. Any person who grows cultivated ginseng as a commercial crop.

(11) PERSON. Any individual, corporation, company, society, association or other business entity.

(12) PURCHASE. To acquire, obtain or receive or to attempt to acquire, obtain or receive by exchange of money or other valuable consideration and specifically includes barter or exchange.

(13) SELL. Dispose of, transfer or convey or attempt to dispose of, transfer or convey by exchange of money or other valuable consideration and specifically includes barter or exchange.

(14) WILD GINSENG. Ginseng in, or collected from its native habitat, notwithstanding whether the ginseng occurs naturally from that habitat or was introduced or increased in abundance by the actions of humans, including, but not limited to, sowing ginseng seed or by transplanting ginseng plants from other areas.

(15) GREEN GINSENG. Ginseng roots retaining moisture, not dried.

(16) DRIED GINSENG. Ginseng roots that have been dried to remove moisture.

*(Acts 1987, No. 87-582, &sect;2.)*

### **Section 9-13-242**

#### **Collection of ginseng.**

(a) The season for the legal collection of ginseng shall be from September 1 through December 13 inclusive. Collection of ginseng outside of this period is unlawful, unless the plants are collected from land owned or managed by the ginseng collector for the personal use of such collector and/or members of the collector's immediate family.

(b) It shall be unlawful to collect ginseng that has less than three five-leaf prongs.

(c) It shall be unlawful to collect ginseng with immature green, unripe fruit (seeds).

(d) It shall be unlawful for any person collecting ginseng to fail to plant immediately after collection the ripe berries or seeds of collected ginseng in the same location at which such ginseng was collected, provided such berries are present.

(e) It shall be unlawful for any person to collect ginseng from private or public property without first obtaining written permission from the landowner or his agent, except on property where general public permission is granted to trespass and to collect such items.

(f) All ginseng not exported from state must be weighed and receipted by March 31 following harvest. Future export certification against this receipt shall be completed by the department.

(g) Ginseng selling season shall be September 15 through March 31, or year round if root was state weighed and receipted by March 31 after harvest.

(h) Ginseng dealers shall not purchase ginseng during the closed season unless they have evidence that the collector dug the roots between September 1 and December 31 of the collecting season and had the roots weighed and receipted by the state no later than March 31 following harvest.

(i) Should the commissioner determine through site observation and investigation that wild ginseng populations are being depleted, he may elect to establish collection quotas or temporarily suspend ginseng collection until such time that the wild ginseng population is restored.

*(Acts 1987, No. 87-582, §3.)*

### **Section 9-13-243**

#### **Registration of ginseng dealers, growers and collectors.**

Ginseng dealers, collectors and growers shall register annually with the department on forms provided by the department on or before August 1 of each year. Such registration shall be accompanied by a fee in an amount determined by the board but in no event shall the board prescribe fees in excess of \$200.00. Delinquent fees shall be handled as provided under section 2-9-2.

*(Acts 1987, No. 87-582, &sect;4.)*

### **Section 9-13-244**

#### **Record keeping requirements.**

(a) Ginseng dealers shall keep records on forms provided by the department of all ginseng purchases and sales. These records will include date of transaction, month collected, county where collected, weight of ginseng bought or sold, seller's permit number and signature of the seller. The report shall also show whether the root was wild or cultivated and if green or dry. These records shall be kept for a period of three years and shall be made available to the department upon request. A clear and legible copy of such records shall be submitted to the commissioner at such times as he deems necessary.

(b) Ginseng growers shall keep accurate records on forms provided by the department of sales of ginseng. Such records shall include date of transaction, county where grown, weight of ginseng sold, purchaser's permit number and name of purchaser. These records shall be kept for a period of three years and shall be made available to the department upon request. A clear and legible copy of such records shall be submitted to the commissioner at such times as he deems necessary.

(c) Ginseng collectors shall, upon request by the commissioner, provide any and all information concerning the precise site from which he has collected ginseng.

(d) Any and all records required to be kept by any ginseng dealer, grower or collector shall be open for inspection by the commissioner at any time during normal business hours.

*(Acts 1987, No. 87-582, §5.)*

#### **Section 9-13-245**

##### **Exportation of ginseng from Alabama.**

(a) Any person who has ginseng in any quantity and wishes to export any amount out of the state may obtain an export permit from the commissioner. To obtain an export permit, the person must maintain accurately kept records of his purchases and sales, be currently registered with the department as a ginseng dealer, and be in compliance with all requirements of this article and regulations promulgated hereto. He shall also present for the purpose of weighing and examination the ginseng to be exposed to the department if requested.

(b) The exportation of ginseng without an export permit is a violation of this article.

*(Acts 1987, No. 87-582, §6.)*

#### **Section 9-13-246**

##### **Promulgation of rules and regulations.**

The commissioner is empowered with the approval of the board to promulgate such rules and regulations as are reasonable and necessary to accomplish the evident purpose and intent of the law and also for the purpose of complying with guidelines imposed by the United States department of interior, fish and wildlife service, concerning the certification and export of ginseng.

*(Acts 1987, No. 87-582, §7.)*

### **Section 9-13-247**

#### **Monitoring program conducted.**

The commissioner shall conduct or cause to be conducted a monitoring program of sufficient depth and scope so as to insure that wild ginseng populations are not depleted.

*(Acts 1987, No. 87-582, §8.)*

### **Section 9-13-248**

#### **Right of entry.**

The commissioner shall have power to enter into or upon any place and to open any bundle, package or other container containing or thought to contain ginseng held or maintained in violation of this article or regulations promulgated thereto.

*(Acts 1987, No. 87-582, §9.)*

### **Section 9-13-249**

#### **Refusal or recall of permits, etc.**

(a) The commissioner shall have the power to refuse to issue a permit or certificate or to recall any permit or certificate already issued when he shall have reasonable cause to believe that the applicant for or holder of said permit or certificate may have or has violated this article or regulations promulgated hereto.

(b) Appeals from the action of the commissioner in refusal to issue or recall any certification or permit shall be heard by the board. Notice of an appeal to the board must be received by the commissioner in writing within 10 days of receiving notice of the commissioner's action. The board shall hear the appeal at its next scheduled meeting, but in no circumstances more than 30 days from the date the commissioner receives the notice of the appeal. The action of the commissioner shall not be stayed pending an appeal before the board.

(c) Appeals from action by the board shall be conducted as provided under the Alabama Administrative Procedure Act, section 41-22-1, et seq.

*(Acts 1987, No. 87-582, §10.)*

### **Section 9-13-250**

#### **Violations.**

(a) Any person who shall violate any provision or requirement of this article or of regulations promulgated hereto or of any notice or order given pursuant thereto or who shall forge, counterfeit, destroy or wrongfully or improperly use any permit or certificate provided for in this article or in the regulations promulgated hereto or who shall interfere with or obstruct any inspector or other employee of the commissioner in the performance of his duties under this article shall be deemed guilty of a Class C misdemeanor.

(b) There is conferred upon the commissioner and his specifically authorized representatives assigned by him to enforce the provisions of this statute the same powers as are possessed by sheriffs of this state for the purpose of enforcing the provisions of this article. In the exercise of their duty they shall exhibit their official identification to any person questioning their authority upon demand. They are authorized and empowered to make lawful arrests of any person violating any provisions of this article.

*(Acts 1987, No. 87-582, §11.)*