

**CHAPTER 7-04-03
GINSENG**

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7-04-03-01. Definitions.

1. "Commissioner" means the commissioner of agriculture.
2. "Cultivated ginseng" means ginseng dry root, live root, tissue culture, or seed propagated in this state.
3. "Dealer" means a person that buys cultivated ginseng for the purpose of resale. The term does not include a person that buys cultivated ginseng dry root solely for the purpose of final retail sale to consumers in the United States.
4. "Ginseng" means panax quinquefolius L.
5. "Grower" means a person that grows cultivated ginseng and who sells cultivated ginseng to a dealer.
6. "Out-of-state cultivated ginseng" means cultivated ginseng grown or nurtured outside this state.

History: Effective July 1, 2019.

General Authority: NDCC 4.1-17-01

Law Implemented: NDCC 4.1-17-01

7-04-03-02. Growers and dealers - License - Fees.

1. A person that desires to act as a grower or a dealer shall register with the commissioner on a form provided by the commissioner. A person that acts as a dealer and a grower shall register as both.
2. Each dealer shall pay an annual license fee of fifty dollars. Each grower shall pay an annual license fee of twenty-five dollars. The fee must be submitted with the license application. The commissioner shall assign a license number to each person licensed.
3. A ginseng license issued under these rules expires on December thirty-first.

History: Effective July 1, 2019.

General Authority: NDCC 4.1-17-01

Law Implemented: NDCC 4.1-17-01

7-04-03-03. Sale or shipment of cultivated ginseng.

1. Any grower that harvests ginseng shall report the harvest to the commissioner, as required by United States fish and wildlife service.
2. All ginseng roots intended for sale must be certified by the commissioner on report forms. Certification must include inspection of roots to ensure maturity and weight of each shipment. The commissioner may charge a fee of not more than five dollars for the ginseng forms.

3. Any grower or dealer holding unsold ginseng after December thirty-first of the year of harvest shall notify the commissioner. The commissioner shall weigh the remaining ginseng and provide certification report of remaining ginseng. This report is used for future certificate of ginseng.
4. Except as provided in subsection 8, a person may not sell or ship cultivated ginseng to a dealer or ship cultivated ginseng out of this state unless the cultivated ginseng is accompanied by a completed shipment certificate provided by the commissioner. The shipment certificate must specify the year in which the cultivated ginseng was harvested. The person selling or shipping the cultivated ginseng shall submit a report form describing to the commissioner the source of all cultivated ginseng included in the sale or shipment. The report must be within thirty days of the sale or shipment. Each person that completes a shipment certificate or report form must retain a copy for three years from the date of the sale or shipment.
5. A dealer may not purchase or receive cultivated ginseng unless it is accompanied by a completed shipment certificate. A dealer shall retain a copy of each shipment certificate received for a period of three years from the date of receipt.
6. A dealer may not purchase or receive out-of-state cultivated ginseng unless it is accompanied by a valid certificate, issued by the state of origin, certifying that the shipment consists solely of out-of-state cultivated ginseng. The certificate must include the source, year of harvest, and dry weight of the out-of-state cultivated ginseng included in the shipment. The dealer shall retain a copy of each certificate received for a period of three years from the date of receipt.
7. A person may not import out-of-state cultivated ginseng into this state unless the imported shipment is accompanied by a valid certificate issued by the state of origin. A person may not ship out-of-state cultivated ginseng using a shipment certificate issued by this state.
8. Subsection 4 does not apply to a person that sells or ships cultivated ginseng dry root to a person outside this state who is buying or receiving the cultivated ginseng dry root solely for the purpose of final retail sale to consumers in the United States, if the person selling or shipping keeps a record of the sale or shipment which includes the following:
 - a. The name and address of the purchaser or recipient.
 - b. The dry weight of the cultivated ginseng dry root included in the sale or shipment.
 - c. The date of the sale or shipment.
 - d. The source of all of the cultivated ginseng dry root included in the sale or shipment.
 - e. The year in which the cultivated ginseng dry root was harvested.

History: Effective July 1, 2019.

General Authority: NDCC 4.1-17-01

Law Implemented: NDCC 4.1-17-01

7-04-03-04. Inspection or submission of records.

Each dealer or grower shall make all records, including records that are located outside of this state, required to be kept under this chapter available for inspection or copying by the commissioner upon the commissioner's request.

History: Effective July 1, 2019.

General Authority: NDCC 4.1-17-01

Law Implemented: NDCC 4.1-17-01

7-04-03-05. Enforcement actions.

The commissioner may deny, suspend, or revoke the registration of any dealer or grower and may invalidate shipment certificates completed by the dealer or grower, if the commissioner finds that the dealer or grower has violated this chapter. The commissioner, without prior notice or hearing, may suspend or invalidate the registration and shipment certificates of a dealer or grower if the commissioner finds there is a need for immediate action to prevent a violation of this chapter. Any action of the commissioner pursuant to this section must be in writing. Any person that receives a notice under this section is entitled to a hearing before the commissioner if requested within ten days after receipt of the notice. Hearings must be conducted within ten days after receipt of a request for the hearing. Enforcement of any action may not be stayed pending the hearing.

History: Effective July 1, 2019.

General Authority: NDCC 4.1-17-01

Law Implemented: NDCC 4.1-17-01