



February 4, 2011

SENATE BILL No. 498

DIGEST OF SB 498 (Updated January 31, 2011 12:47 pm - DI 116)

Citations Affected: IC 14-8; IC 14-31.

Synopsis: Ginseng. Requires a person to be licensed to grow or harvest ginseng. Establishes separate licenses for individuals and business entities that are ginseng dealers. Requires a ginseng grower to provide the department of natural resources (DNR) with an annual summary of the grower's cultivated ginseng harvest. Prohibits the possession of wild ginseng by a harvester except during the harvest season, unless approved by DNR. Prohibits the purchase, sale, or possession of wild ginseng by a ginseng dealer except during the time established by DNR, unless approved by DNR. (Current law applies to all ginseng.) Requires the natural resources commission to establish certain document requirements to be used by ginseng dealers, harvesters, and growers. Allows the commission to set license fees above the amount prescribed. Make certain conforming changes.

Effective: July 1, 2011.

Young R, Mishler

January 13, 2011, read first time and referred to Committee on Agriculture and Natural Resources.
February 3, 2011, amended, reported favorably — Do Pass.

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SB 498—LS 7452/DI 77+



February 4, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 498

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 14-8-2-62.6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 62.6 "Cultivated ginseng", for purposes of**
4 **IC 14-31-3, has the meaning set forth in IC 14-31-3-1.5.**
- 5 SECTION 2. IC 14-8-2-116.1 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2011]: **Sec. 116.1. "Ginseng grower", for**
8 **purposes of IC 14-31-3, has the meaning set forth in IC 14-31-3-3.3.**
- 9 SECTION 3. IC 14-8-2-116.3 IS ADDED TO THE INDIANA
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2011]: **Sec. 116.3. "Ginseng harvester", for**
12 **purposes of IC 14-31-3, has the meaning set forth in IC 14-31-3-3.6.**
- 13 SECTION 4. IC 14-8-2-202 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 202. (a) "Person"
15 means, except as provided in subsections (b) through (j), an individual,
16 a partnership, an association, a fiduciary, an executor or administrator,
17 a limited liability company, or a corporation.

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1 (b) "Person", for purposes of IC 14-12-2, has the meaning set forth
2 in IC 14-12-2-3.

3 (c) "Person", for purposes of IC 14-16, IC 14-22-28, IC 14-24,
4 IC 14-26-2, IC 14-28-1, IC 14-28-3, IC 14-29-6, and IC 14-38-2, means
5 an individual, a partnership, an association, a fiduciary, an executor or
6 administrator, a limited liability company, a corporation, other legal
7 entity, the state, or an agency, a political subdivision, or another
8 instrumentality of the state.

9 (d) "Person", for purposes of IC 14-12-1, IC 14-12-2, IC 14-20-1,
10 IC 14-21, IC 14-25 through IC 14-29, except as otherwise provided in
11 this section, IC 14-33, IC 14-34, and IC 14-37, means an individual, a
12 partnership, an association, a fiduciary, an executor or administrator,
13 a limited liability company, a corporation, or a governmental entity.

14 (e) "Person", for purposes of IC 14-22-31.5, has the meaning set
15 forth in IC 14-22-31.5-2.

16 (f) "Person", for purposes of IC 14-25-3, has the meaning set forth
17 in IC 14-25-3-1.

18 (g) "Person", for the purposes of IC 14-25-7, has the meaning set
19 forth in IC 14-25-7-5.

20 **(h) "Person", for purposes of IC 14-31-3, has the meaning set
21 forth in IC 14-31-3-4.3.**

22 ~~(h)~~ (i) "Person", for purposes of IC 14-34, means an individual, a
23 partnership, a limited liability company, an association, a society, a
24 joint stock company, a firm, a company, a corporation, or other
25 business organization.

26 ~~(i)~~ (j) "Person", for purposes of IC 14-38-1, has the meaning set
27 forth in IC 14-38-1-2.

28 ~~(j)~~ (k) "Person", for purposes of IC 14-24-12, has the meaning set
29 forth in IC 14-24-12-4.

30 SECTION 5. IC 14-8-2-215.5 IS ADDED TO THE INDIANA
31 CODE AS A NEW SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2011]: **Sec. 215.5. "Processed ginseng", for
33 purposes of IC 14-31-3, has the meaning set forth in IC 14-31-3-4.6.**

34 SECTION 6. IC 14-8-2-250 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 250. "Selling season",
36 for purposes of ~~IC 14-31-3-9~~, **IC 14-31-3**, has the meaning set forth in
37 ~~IC 14-31-3-9~~. **IC 14-31-3-5.5.**

38 SECTION 7. IC 14-31-3-1.5 IS ADDED TO THE INDIANA CODE
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
40 1, 2011]: **Sec. 1.5. As used in this chapter, "cultivated ginseng"
41 means any ginseng that is grown in a tilled bed:**

42 **(1) under shading structures; or**

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(2) under natural shade.
SECTION 8. IC 14-31-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) As used in this chapter, "ginseng" refers to American ginseng (*Panax quinquefolius* L.).

- (b) The term does not include ginseng that is:
 - (1) **ready processed ginseng** for consumption; and
 - (2) sold or bought at retail.

SECTION 9. IC 14-31-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. ~~(a)~~ As used in this chapter, "ginseng dealer" means a person who buys ginseng roots in **Indiana** from ginseng harvesters. ~~or other ginseng dealers for resale or exportation.~~

~~(b) The term does not include a person who sells solely for domestic consumption.~~

SECTION 10. IC 14-31-3-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 3.3. As used in this chapter, "ginseng grower" means a person that plants or grows cultivated ginseng.**

SECTION 11. IC 14-31-3-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 3.6. As used in this chapter, "ginseng harvester" means a person who harvests wild ginseng.**

SECTION 12. IC 14-31-3-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4.3. As used in this chapter, "person" means an individual or a business entity.**

SECTION 13. IC 14-31-3-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4.6. (a) As used in this chapter, "processed ginseng" means cultivated or wild ginseng that:**

- (1) has been chopped, cut, ground, or otherwise made unfit for the wild ginseng trade; and**
- (2) is ready for consumption, or sold or bought at retail.**

(b) The term does not include whole ginseng roots.

SECTION 14. IC 14-31-3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 5.5. As used in this chapter, "selling season" means the season established by the commission under section 14(b)(2) of this chapter.**

SECTION 15. IC 14-31-3-7 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. A person must have
2 a license issued by the department to be a act as any of the following:

- 3 (1) An individual ginseng dealer. in Indiana.
- 4 (2) A business entity ginseng dealer.
- 5 (3) A ginseng harvester.
- 6 (4) A ginseng grower.

7 SECTION 16. IC 14-31-3-8 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) To obtain or
9 renew a ginseng dealer's license, a person must do the following:

- 10 (1) Apply to the department for the license in the manner
11 prescribed by the department.
- 12 (2) Pay a the license fee of one hundred dollars (\$100) before
13 August 15 of each year. established by the commission under
14 section 14.5 of this chapter.

15 (b) A ginseng dealer's license expires annually or issued under this
16 subsection is effective for one (1) year, from September 1 through
17 August 31. To renew a ginseng dealer's license, a person must apply
18 under subdivision (1) and pay the license fee under subdivision (2)
19 not later than the August 15 immediately preceding the license's
20 expiration date.

21 (b) To obtain a ginseng harvester's license, a person must do the
22 following:

- 23 (1) Apply to the department in the manner prescribed by the
24 department.
- 25 (2) Pay the license fee established by the commission under
26 section 14.5 of this chapter.

27 A ginseng harvester's license issued under this subsection is valid
28 only for the duration of the harvest season.

29 (c) To obtain or renew a ginseng grower's license, a person must
30 do the following:

- 31 (1) Apply to the department for the license in the manner
32 prescribed by the department.
- 33 (2) Pay the license fee established by the commission under
34 section 14.5 of this chapter.

35 A ginseng grower's license issued under this subsection is effective
36 for one (1) year, from September 1 through August 31. To renew
37 a ginseng grower's license, a person must apply under subdivision
38 (1) and pay the license fee under subdivision (2) not later than the
39 August 15 immediately preceding the license's expiration date.

40 (d) The director and authorized agents appointed by the
41 director may issue ginseng dealer, harvester, and grower licenses.

42 (e) Each ginseng dealer, harvester, and grower license must be

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1 in a form prescribed by the director. The director may furnish
2 authorized agents with all necessary equipment needed to issue a
3 license.

4 (f) A dealer, harvester, or grower license purchased
5 electronically is valid only with the original signature of the
6 licensee on the form prescribed by the director. The licensee's
7 signature serves as an affidavit that the license information is true
8 and accurate.

9 SECTION 17. IC 14-31-3-8.2 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2011]: **Sec. 8.2. An individual who holds a
12 ginseng dealer's license may buy and sell wild ginseng in Indiana.**

13 SECTION 18. IC 14-31-3-8.4 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2011]: **Sec. 8.4. A business that holds a
16 ginseng dealer's license, including employees and agents of the
17 business, may buy and sell wild ginseng at the business's business
18 address.**

19 SECTION 19. IC 14-31-3-8.6 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2011]: **Sec. 8.6. (a) A person who holds a
22 ginseng harvester's license may harvest wild ginseng during the
23 harvest season.**

24 (b) A person must have a ginseng harvester's license in the
25 person's possession while harvesting wild ginseng.

26 (c) A person is not required to have a license to harvest wild
27 ginseng if:

28 (1) the ginseng is harvested by the landowner or the spouse or
29 children living with the landowner where the ginseng is
30 harvested; and

31 (2) the ginseng is not sold.

32 (d) A ginseng harvester who fails to possess a harvester's license
33 while harvesting ginseng commits a Class C infraction.

34 (e) A ginseng harvester who fails to procure a ginseng
35 harvester's license prior to harvesting ginseng commits a Class C
36 misdemeanor.

37 SECTION 20. IC 14-31-3-8.8 IS ADDED TO THE INDIANA
38 CODE AS A NEW SECTION TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2011]: **Sec. 8.8. A person who holds a ginseng
40 grower's license may do the following:**

41 (1) Propagate and harvest cultivated ginseng.

42 (2) Buy and sell cultivated ginseng in Indiana, including

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1 **transactions conducted by employees or agents of the grower**
2 **at the grower's business address.**

3 SECTION 21. IC 14-31-3-9 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. ~~(a) As used in this~~
5 ~~section, "selling season" means the season established by the~~
6 ~~commission under section 14(b)(2) of this chapter.~~

7 ~~(b) (a) Each ginseng dealer shall submit a summary of all ginseng~~
8 ~~purchased and sold by the ginseng dealer during the selling season to~~
9 ~~the department within thirty (30) days of the last day of the selling~~
10 ~~season. The summary must also contain other information and be~~
11 ~~prepared in the manner required by the department. by rule.~~

12 **(b) Each ginseng grower shall submit to the department, not**
13 **later than thirty (30) days after the last day of the selling season, a**
14 **summary of all cultivated ginseng harvested by the ginseng grower**
15 **during the previous calendar year. The summary must be prepared**
16 **in the manner required by the department.**

17 SECTION 22. IC 14-31-3-10 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) Wild ginseng
19 may not be harvested except during harvest season.

20 (b) **Wild** ginseng harvested in Indiana may not be possessed by a
21 ginseng harvester during the part of a year established under section
22 14(b)(3) of this chapter, unless the department gives written
23 authorization otherwise.

24 (c) **Wild** ginseng harvested in Indiana may not be bought, sold, or
25 possessed by a ginseng dealer during the part of a year established
26 under section 14(b)(4) of this chapter, unless the department gives
27 written authorization otherwise.

28 (d) Ginseng that is harvested in Indiana may not be taken **or**
29 **otherwise removed** from Indiana without written authorization from
30 the department.

31 SECTION 23. IC 14-31-3-13 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. The department
33 may establish **wild** ginseng harvesting quotas based on the results of
34 research and data collection.

35 SECTION 24. IC 14-31-3-14 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) The department
37 may adopt rules under IC 4-22-2 that are necessary to carry out this
38 chapter.

39 (b) The commission shall adopt rules under IC 4-22-2 to do the
40 following:

- 41 (1) Establish the harvest season.
- 42 (2) Establish the selling season.

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1 (3) Establish the part of a year when ginseng harvested in Indiana
 2 may not be possessed by a ginseng harvester without written
 3 authorization from the department.
 4 (4) Establish the part of a year when ginseng harvested in Indiana
 5 may not be bought, sold, or possessed by a ginseng dealer without
 6 written authorization from the department.
 7 **(5) Specify reports, logs, certificates, and other documents**
 8 **required to be used by licensed ginseng dealers, harvesters,**
 9 **and growers.**
 10 **(c) A person who holds a license under this chapter shall**
 11 **complete any required reports, logs, certificates, and other**
 12 **documents in a manner that is true, legible, and accurate.**
 13 SECTION 25. IC 14-31-3-14.5 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2011]: **Sec. 14.5. (a) Subject to subsection (b),**
 16 **the commission shall set the amount of the license fee required to**
 17 **obtain and renew a license issued under this chapter.**
 18 **(b) The license fees established under subsection (a):**
 19 **(1) may not exceed an amount necessary to administer this**
 20 **chapter; and**
 21 **(2) must be at least:**
 22 **(A) seventy-five dollars (\$75) for a ginseng dealer's license;**
 23 **(B) ten dollars (\$10) for a ginseng harvester's license; and**
 24 **(C) twenty-five dollars (\$25) for a ginseng grower's license.**
 25 SECTION 26. IC 14-31-3-16 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 16. A person who
 27 harvests **wild** ginseng out of a harvest season in violation of section 10
 28 of this chapter commits a Class B misdemeanor.
 29 SECTION 27. IC 14-31-3-17 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. **Except as**
 31 **provided in section 8.6(c) of this chapter,** a person who possesses
 32 unprocessed **wild** ginseng out of a harvest season in violation of section
 33 10 of this chapter commits a Class B misdemeanor.
 34 SECTION 28. IC 14-31-3-18 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 18. A person who
 36 harvests **wild** ginseng in an amount greater than a quota established
 37 under section 13 of this chapter commits a Class B infraction.

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COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Natural Resources, to which was referred Senate Bill No. 498, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, between lines 27 and 28, begin a new line block indented and insert:

"(1) the ginseng is harvested by the landowner or the spouse or children living with the landowner where the ginseng is harvested; and".

Page 5, delete lines 28 through 29.

Page 5, between lines 30 and 31, begin a new paragraph and insert:

"(d) A ginseng harvester who fails to possess a harvester's license while harvesting ginseng commits a Class C infraction.

(e) A ginseng harvester who fails to procure a ginseng harvester's license prior to harvesting ginseng commits a Class C misdemeanor."

and when so amended that said bill do pass.

(Reference is to SB 498 as introduced.)

MISHLER, Chairperson

Committee Vote: Yeas 5, Nays 3.

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