

This bill, if it had passed, would have made any illegal harvesting or distribution of white sage a punishable offense. Current laws only pertain to whether the plant was gathered on federal or state land without permits. The white sage plant itself still has no specific legal protection.

## CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 1041

Introduced by Assembly Member Ramos

February 15, 2023

An act to add Section 2025 to the Fish and Game Code, relating to wildlife.

This bill was dismissed nearly a year later on January 31, 2024 because the Assembly failed to take it up during its 2023-2024 session.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1041, as introduced, Ramos. Wildlife: white sage: taking and possession.

Dudleya is an endangered succulent native to California and is protected from poaching and illegal distribution by various state and federal laws.

Under existing law, it is unlawful to uproot, remove, harvest, or cut dudleya, as defined, from land owned by the state or a local government or from property not their own without written permission from the landowner in their immediate possession, except as provided, and to sell, offer for sale, possess with intent to sell, transport for sale, export for sale, or purchase dudleya uprooted, removed, harvested, or cut in violation of that provision. Existing law establishes specified criminal penalties for a violation of those provisions.

Despite California white sage being native to a limited portion of California, the plant itself has no state or federal protections, hence the original proposal of this bill.

This bill would extend those same prohibitions to white sage and would subject a violation of those prohibitions to the same criminal penalties established for dudleya. The bill, with respect to state and local property, would exempt the harvest and use of white sage for traditional tribal, cultural, or spiritual purposes by a member of a Native American tribe, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

### Digest Key

## Bill Text

# THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 2025 is added to the Fish and Game Code, to read:

2025. (a) For purposes of this section, “white sage” means the plant white sage (*salvia apiana*).

(b) Except as provided in subdivision (d), it is unlawful to uproot, remove, harvest, or cut white sage from land owned by the state or a local government or from property not one’s own without written permission from the landowner in one’s immediate possession.

This, if the bill had passed, would only allow non-indigenous individuals to harvest white sage to harvest from plants on their property.

(c) It is unlawful to sell, offer for sale, possess with intent to sell, transport for sale, export for sale, or purchase white sage uprooted, removed, harvested, or cut in violation of subdivision (b).

(d) (1) A person or entity that holds a license or permit pursuant to Section 1002 may take white sage consistent with that license or permit.

(2) The prohibitions set forth in subdivisions (b) and (c), with respect to state or local property, do not apply to white sage harvested or used, or both, for traditional tribal, cultural, or spiritual purposes by a member of a federally recognized Native American tribe or a nonfederally recognized California Native American tribe listed on the California Tribal Consultation List maintained by the Native American Heritage Commission.

Allowing indigenous communities with ties to the plant to gather white sage without restrictions would balance both legal protections and free access to those who rely on it.

(e) Notwithstanding Section 12000, for a violation of this section, or any rule, regulation, or order adopted pursuant to this section, the following criminal penalties shall be imposed:

(1) For a first conviction, where the total value is two hundred fifty dollars (\$250) or more, the offense shall be a misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000), imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(2) For a second or subsequent conviction, the offense shall be a misdemeanor punishable by a fine of not less than ten thousand dollars (\$10,000) and not more than five hundred thousand dollars, (\$500,000), imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

Ron Goodman has called the current protocol for apprehended poachers a "catch and release" procedure. This consists of placing the offender in custody, recording the incident, and releasing the offender, often on site of the crime, with a ticket and/or fine.

(f) In addition to, and separate from, any criminal penalty provided for under subdivision (e), where applicable, the cost of replanting any white sage forfeited pursuant to subdivision (g), may be imposed by the court. Incorporating the cost of replanting white sage ensures that the damaged stands are replenished, limiting the environmental damage that poaching inflicts.

(g) Upon conviction or other entry of judgment for a violation of this section, any seized white sage shall be forfeited to the department. The forfeiture of the poached sage ensures that the offender will not profit from the crime, nor will it be as easily available on the market.

(h) Notwithstanding Section 802 of the Penal Code, prosecution of an offense punishable under this section shall be commenced within three years after commission of the offense.

**SEC. 2.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.