



# California

## LEGISLATIVE INFORMATION

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CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

**ASSEMBLY BILL****NO. 223****Introduced by Assembly Member Ward****January 11, 2021**

An act to add Section 2024 to the Fish and Game Code, relating to wildlife.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 223, as introduced, Ward. Wildlife: dudleya: taking and possession.

The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species and to add or remove species from either list if it finds, upon the receipt of sufficient scientific information, as specified, and based solely upon the best available scientific information, that the action is warranted. The commission has listed certain species of dudleya as threatened or endangered under the act. Existing law prohibits a person or public agency from importing into the state, exporting out of the state, or taking, possessing, purchasing, or selling within the state any endangered or threatened species, except as provided, and imposes specified penalties for a violation of this provision.

This bill would make it 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 would make it unlawful 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. The bill would require a violation of those provisions, or any rule, regulation, or order adopted pursuant to those provisions, to be a misdemeanor punishable by a specified fine, imprisonment in a county jail for not more than a year, or both the fine and imprisonment. By creating a new crime, the bill would impose a state-mandated local program. Upon conviction or other entry of judgment for a violation of these provisions, the bill would require any seized dudleya to be forfeited to the Department of Fish and Wildlife, and would authorize the court to impose, in addition to, and separate from, any criminal penalty, the cost of replanting any dudleya forfeited to the department. The bill would require the prosecution of an offense punishable under these provisions to be commenced within 3 years after commission of the offense.

The bill would also set forth legislative findings and declarations relating to dudleya poaching.

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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

**SECTION 1.** Section 2024 is added to the Fish and Game Code, immediately following Section 2023, to read:

**2024.** (a) The Legislature finds and declares all of the following:

(1) Illegal poaching of the state's native plants is a threat to the state's biodiversity, can put certain species at risk for extinction, and can negatively impact entire ecosystem functions.

(2) The illicit trade of live plants and animals is a multibillion dollar market responsible for the unwanted transmission of pests and diseases from one country to another.

(3) Dudleya poaching, specifically, has increased dramatically because they have become popular in many Southeast Asian countries, where a single plant can be sold for up to one thousand dollars (\$1,000) on the black market. As a result, some poaching operations have been found to be in possession of thousands of dudleya taken from the state's forests, mountains, and coastal bluffs.

(4) Some species of dudleya, which already face conservation challenges, such as habitat loss from development or altered wildfire regimes, are endemic to the state and their worldwide distribution is limited to a single county, island, or mountain range.

(5) Protecting dudleya populations from poaching activity is necessary to prevent the loss of species and to promote the conservation of the state's biodiversity.

(b) For purposes of this section, "dudleya" means a succulent plant that belongs to the genus *Dudleya* and referred to commonly as "live-forevers" or "dudleya" that is native to California and grows in natural habitats.

(c) Except as provided in subdivision (e), it is unlawful to uproot, remove, harvest, or cut dudleya 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.

(d) It is unlawful 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 subdivision (c).

(e) A person who holds a license or permit pursuant to Section 1002 may take dudleya consistent with that license or permit.

(f) 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, the offense shall be a misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000) per plant, imprisonment in the county jail for not more than one year, 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 forty thousand dollars (\$40,000) per plant, imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(g) In addition to, and separate from, any criminal penalty provided for under subdivision (f), where applicable, the cost of replanting any dudleya forfeited pursuant to subdivision (h), may be imposed by the court.

(h) Upon conviction or other entry of judgment for a violation of this section, any seized dudleya shall be forfeited to the department.

(i) 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.