

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2179

By: Fetgatter and **Talley**

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to medical marijuana; amending 63
10 O.S. 2021, Section 422, which relates to licensing
11 requirements for medical marijuana commercial
12 growers; providing statutory reference for
13 application fee; updating language; amending 63 O.S.
14 2021, Section 427.14, which relates to the Oklahoma
15 Medical Marijuana and Patient Protection Act;
16 establishing tiered licensing fee schedule for
17 medical marijuana commercial growers; defining terms;
18 updating language; and declaring an emergency.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 63 O.S. 2021, Section 422, is
21 amended to read as follows:

22 Section 422. A. ~~The State Department of Health shall, within~~
23 ~~thirty (30) days of passage of this initiative,~~ Oklahoma Medical
24 Marijuana Authority shall make available on its website in an easy-
to-find location an application for a medical marijuana commercial
grower license. The application fee shall be ~~Two Thousand Five~~
~~Hundred Dollars (\$2,500.00)~~ paid by the applicant in the amounts

1 provided for in Section 427.14 of this title. A method of payment
2 for the application fee shall be provided on the website of the
3 ~~Department Authority.~~ The State Department of Health Authority
4 shall have ninety (90) days to review the application; approve,
5 reject or deny the application; and mail the approval, rejection or
6 denial letter stating the reasons for the rejection or denial to the
7 applicant.

8 B. ~~The State Department of Health Authority~~ Authority shall approve all
9 applications which meet the following criteria:

10 1. The applicant must be twenty-five (25) years of age or
11 older;

12 2. The applicant, if applying as an individual, must show
13 residency in the State of Oklahoma;

14 3. All applying entities must show that all members, managers,
15 and board members are Oklahoma residents;

16 4. An applying entity may show ownership of non-Oklahoma
17 residents, but that percentage ownership may not exceed twenty-five
18 percent (25%);

19 5. All applying individuals or entities must be registered to
20 conduct business in the State of Oklahoma; and

21 6. All applicants must disclose all ownership interests in the
22 commercial grower operation.

23 Applicants with a nonviolent felony conviction in the last two
24 (2) years, any other felony conviction in the last five (5) years,

1 inmates in the custody of the Department of Corrections or any
2 person currently incarcerated shall not qualify for a commercial
3 grower license.

4 C. A licensed medical marijuana commercial grower may sell
5 marijuana to a licensed medical marijuana dispensary or a licensed
6 medical marijuana processor. Further, sales by a licensed medical
7 marijuana commercial grower shall be considered wholesale sales and
8 shall not be subject to taxation. Under no circumstances may a
9 licensed medical marijuana commercial grower sell marijuana directly
10 to a licensed medical marijuana patient or licensed medical
11 marijuana caregiver. A licensed medical marijuana commercial grower
12 may only sell at the wholesale level to a licensed medical marijuana
13 dispensary, a licensed medical marijuana commercial grower or a
14 licensed medical marijuana processor. If the federal government
15 lifts restrictions on buying and selling marijuana between states,
16 then a licensed medical marijuana commercial grower would be allowed
17 to sell and buy marijuana wholesale from, or to, an out-of-state
18 wholesale provider. A licensed medical marijuana commercial grower
19 shall be required to complete a monthly yield and sales report to
20 the ~~State Department of Health~~ Authority. This report shall be due
21 on the fifteenth of each month and provide reporting on the previous
22 month. This report shall detail the amount of marijuana harvested
23 in pounds, the amount of drying or dried marijuana on hand, the
24 amount of marijuana sold to licensed processors in pounds, the

1 amount of waste in pounds, and the amount of marijuana sold to
2 licensed medical marijuana dispensaries in pounds. Additionally,
3 this report shall show total wholesale sales in dollars. The ~~State~~
4 ~~Department of Health~~ Authority shall have oversight and auditing
5 responsibilities to ensure that all marijuana being grown by
6 licensed medical marijuana commercial growers is accounted for.

7 D. There shall be no limits on how much marijuana a licensed
8 medical marijuana commercial grower can grow.

9 E. Beginning on the effective date of this act, licensed
10 medical marijuana commercial growers shall be authorized to package
11 and sell pre-rolled marijuana to licensed medical marijuana
12 dispensaries. The products described in this subsection shall
13 contain only the ground parts of the marijuana plant and shall not
14 include marijuana concentrates or derivatives. The total net weight
15 of each pre-roll packaged and sold by licensed medical marijuana
16 commercial growers shall not exceed one (1) gram. These products
17 must be tested, packaged and labeled in accordance with Oklahoma law
18 and rules promulgated by the ~~State Commissioner of Health~~ Authority.

19 SECTION 2. AMENDATORY 63 O.S. 2021, Section 427.14, is
20 amended to read as follows:

21 Section 427.14 A. There is hereby created the medical
22 marijuana business license, which shall include the following
23 categories:

24 1. Medical marijuana commercial grower;

- 1 2. Medical marijuana processor;
- 2 3. Medical marijuana dispensary;
- 3 4. Medical marijuana transporter; and
- 4 5. Medical marijuana testing laboratory.

5 B. The Oklahoma Medical Marijuana Authority, with the aid of
6 the Office of Management and Enterprise Services, shall develop a
7 website for medical marijuana business applications.

8 C. The Authority shall make available on its website in an
9 easy-to-find location, applications for a medical marijuana
10 business.

11 D. ~~The~~ 1. Except as provided in paragraph 2 of this
12 subsection, the annual, nonrefundable application fee for a medical
13 marijuana business license shall be Two Thousand Five Hundred
14 Dollars (\$2,500.00).

15 2. The annual, nonrefundable application fee for a medical
16 marijuana commercial grower shall be as follows:

17 a. For an indoor medical marijuana grow facility:

18 (1) Tier 1: Up to one thousand six hundred sixty-
19 seven (1,667) square feet of canopy, the fee
20 shall be Two Thousand Five Hundred Dollars
21 (\$2,500.00),

22 (2) Tier 2: One thousand six hundred sixty-eight
23 (1,668) square feet of canopy to two thousand
24 four hundred ninety-nine (2,499) square feet of

1 canopy, the fee shall be calculated at One Dollar
2 and fifty cents (\$1.50) per square foot of
3 canopy,

4 (3) Tier 3: Two thousand five hundred (2,500) square
5 feet of canopy to four thousand nine hundred
6 ninety-nine (4,999) square feet of canopy, the
7 fee shall be calculated at One Dollar and fifty
8 cents (\$1.50) per square foot of canopy,

9 (4) Tier 4: Five thousand (5,000) square feet of
10 canopy to nine thousand nine hundred ninety-nine
11 (9,999) square feet of canopy, the fee shall be
12 calculated at One Dollar and fifty cents (\$1.50)
13 per square foot of canopy,

14 (5) Tier 5: Ten thousand (10,000) square feet of
15 canopy to nineteen thousand nine hundred ninety-
16 nine (19,999) square feet of canopy, the fee
17 shall be calculated at One Dollar and fifty cents
18 (\$1.50) per square foot of canopy,

19 (6) Tier 6: Twenty thousand (20,000) square feet of
20 canopy to twenty-nine thousand nine hundred
21 ninety-nine (29,999) square feet of canopy, the
22 fee shall be calculated at One Dollar and fifty
23 cents (\$1.50) per square foot of canopy,

24

- 1 (7) Tier 7: Thirty thousand (30,000) square feet of
2 canopy to forty-nine thousand nine hundred
3 ninety-nine (49,999) square feet of canopy, the
4 fee shall be calculated at One Dollar and fifty
5 cents (\$1.50) per square foot of canopy, and
6 (8) Tier 8: Fifty thousand (50,000) square feet of
7 canopy and beyond, the fee shall be calculated at
8 One Dollar and fifty cents (\$1.50) per square
9 foot of canopy,

10 b. For a greenhouse or a light deprivation medical
11 marijuana grow facility:

- 12 (1) Tier 1: Up to one thousand six hundred sixty-
13 seven (1,667) square feet of canopy, the fee
14 shall be Two Thousand Five Hundred Dollars
15 (\$2,500.00),
16 (2) Tier 2: One thousand six hundred sixty-eight
17 (1,668) square feet of canopy to two thousand
18 four hundred ninety-nine (2,499) square feet of
19 canopy, the fee shall be calculated at One Dollar
20 and fifty cents (\$1.50) per square foot of
21 canopy,
22 (3) Tier 3: Two thousand five hundred (2,500) square
23 feet of canopy to four thousand nine hundred
24 ninety-nine (4,999) square feet of canopy, the

1 fee shall be calculated at One Dollar and fifty
2 cents (\$1.50) per square foot of canopy,

3 (4) Tier 4: Five thousand (5,000) square feet of
4 canopy to nine thousand nine hundred ninety-nine
5 (9,999) square feet of canopy, the fee shall be
6 calculated at One Dollar and fifty cents (\$1.50)
7 per square foot of canopy,

8 (5) Tier 5: Ten thousand (10,000) square feet of
9 canopy to nineteen thousand nine hundred ninety-
10 nine (19,999) square feet of canopy, the fee
11 shall be calculated at One Dollar and fifty cents
12 (\$1.50) per square foot of canopy,

13 (6) Tier 6: Twenty thousand (20,000) square feet of
14 canopy to twenty-nine thousand nine hundred
15 ninety-nine (29,999) square feet of canopy, the
16 fee shall be calculated at One Dollar and fifty
17 cents (\$1.50) per square foot of canopy,

18 (7) Tier 7: Thirty thousand (30,000) square feet of
19 canopy to forty-nine thousand nine hundred
20 ninety-nine (49,999) square feet of canopy, the
21 fee shall be calculated at One Dollar and fifty
22 cents (\$1.50) per square foot of canopy, and

23 (8) Tier 8: Fifty thousand (50,000) square feet of
24 canopy and beyond, the fee shall be calculated at

1 One Dollar and fifty cents (\$1.50) per square
2 foot of canopy,

3 c. For an outdoor medical marijuana grow facility:

4 (1) Tier 1: Up to eighty-three thousand three
5 hundred thirty-four (83,334) square feet of
6 canopy, the fee shall be Two Thousand Five
7 Hundred Dollars (\$2,500.00),

8 (2) Tier 2: Eighty-three thousand three hundred
9 thirty-five (83,335) square feet of canopy to two
10 hundred seventeen thousand seven hundred ninety-
11 nine (217,799) square feet of canopy, the fee
12 shall be calculated at three cents (\$0.03) per
13 square foot of canopy,

14 (3) Tier 3: Two hundred seventeen thousand eight
15 hundred (217,800) square feet of canopy to four
16 hundred thirty-five thousand five hundred ninety-
17 nine (435,599) square feet of canopy, the fee
18 shall be calculated at three cents (\$0.03) per
19 square foot of canopy,

20 (4) Tier 4: Four hundred thirty-five thousand six
21 hundred (435,600) square feet of canopy to eight
22 hundred seventy-one thousand one hundred ninety-
23 nine (871,199) square feet of canopy, the fee

24

1 shall be calculated at three cents (\$0.03) per
2 square foot of canopy,

3 (5) Tier 5: Eight hundred seventy-one thousand two
4 hundred (871,200) square feet of canopy to one
5 million three hundred six thousand seven hundred
6 ninety-nine (1,306,799) square feet of canopy,
7 the fee shall be calculated at three cents
8 (\$0.03) per square foot of canopy,

9 (6) Tier 6: One million three hundred six thousand
10 eight hundred (1,306,800) square feet of canopy
11 to one million seven hundred forty-two thousand
12 three hundred ninety-nine (1,742,399) square feet
13 of canopy, the fee shall be calculated at three
14 cents (\$0.03) per square foot of canopy,

15 (7) Tier 7: One million seven hundred forty-two
16 thousand four hundred (1,742,400) square feet of
17 canopy to two million one hundred seventy-seven
18 thousand nine hundred ninety-nine (2,177,999)
19 square feet of canopy, the fee shall be
20 calculated at three cents (\$0.03) per square foot
21 of canopy, and

22 (8) Tier 8: Two million one hundred seventy-eight
23 thousand (2,178,000) square feet of canopy and
24

1 beyond, the fee shall be calculated at three
2 cents (\$0.03) per square foot of canopy, or

3 d. For a medical marijuana grow facility that produces
4 clones from nonflowering plants for retail sale, the
5 fee shall be Two Thousand Five Hundred Dollars
6 (\$2,500.00).

7 3. As used in this subsection:

8 a. "canopy" means the total surface area within a
9 cultivation area that is dedicated to the cultivation
10 of flowering marijuana plants. The surface area of
11 the plant canopy must be calculated in square feet and
12 measured and must include all of the area within the
13 boundaries where the cultivation of the flowering
14 marijuana plants occurs. If the surface of the plant
15 canopy consists of noncontiguous areas, each component
16 area must be separated by identifiable boundaries. If
17 a tiered or shelving system is used in the cultivation
18 area, the surface area of each tier or shelf must be
19 included in calculating the area of the plant canopy.
20 Calculation of the area of the plant canopy may not
21 include the areas within the cultivation area that are
22 used to cultivate immature marijuana plants and
23 seedlings, prior to flowering, and that are not used
24 at any time to cultivate mature marijuana plants. If

1 the flowering plants are vertically grown in
2 cylinders, the square footage of the canopy shall be
3 measured by the circumference of the cylinder
4 multiplied by the total length of the cylinder,

5 b. "greenhouse" means a structure located outdoors that
6 is completely covered by a material that allows a
7 controlled level of light transmission, and

8 c. "light deprivation" means a structure that has
9 concrete floors and the ability to manipulate natural
10 light.

11 E. All applicants seeking licensure or licensure renewal as a
12 medical marijuana business shall comply with the following general
13 requirements:

14 1. All applications for licenses and registrations authorized
15 pursuant to this section shall be made upon forms prescribed by the
16 Authority;

17 2. Each application shall identify the city or county in which
18 the applicant seeks to obtain licensure as a medical marijuana
19 business;

20 3. Applicants shall submit a complete application to the
21 ~~Department~~ Authority before the application may be accepted or
22 considered;

23 4. All applications shall be complete and accurate in every
24 detail;

1 5. All applications shall include all attachments or
2 supplemental information required by the forms supplied by the
3 Authority;

4 6. All applications shall be accompanied by a full remittance
5 for the whole amount of the application fees. Application fees are
6 nonrefundable;

7 7. All applicants shall be approved for licensing review that,
8 at a minimum, meets the following criteria:

9 a. twenty-five (25) years of age or older,

10 b. if applying as an individual, proof that the applicant
11 is an Oklahoma resident pursuant to paragraph 11 of
12 this subsection,

13 c. if applying as an entity, proof that seventy-five
14 percent (75%) of all members, managers, executive
15 officers, partners, board members or any other form of
16 business ownership are Oklahoma residents pursuant to
17 paragraph 11 of this subsection,

18 d. if applying as an individual or entity, proof that the
19 individual or entity is registered to conduct business
20 in the State of Oklahoma,

21 e. disclosure of all ownership interests pursuant to the
22 Oklahoma Medical Marijuana and Patient Protection Act,
23 and
24

1 f. proof that the medical marijuana business, medical
2 marijuana research facility, medical marijuana
3 education facility and medical marijuana waste
4 disposal facility applicant or licensee has not been
5 convicted of a nonviolent felony in the last two (2)
6 years, or any other felony conviction within the last
7 five (5) years, is not a current inmate in the custody
8 of the Department of Corrections, or currently
9 incarcerated in a jail or corrections facility;

10 8. There shall be no limit to the number of medical marijuana
11 business licenses or categories that an individual or entity can
12 apply for or receive, although each application and each category
13 shall require a separate application and application fee. A
14 commercial grower, processor and dispensary, or any combination
15 thereof, are authorized to share the same address or physical
16 location, subject to the restrictions set forth in the Oklahoma
17 Medical Marijuana and Patient Protection Act;

18 9. All applicants for a medical marijuana business license,
19 research facility license or education facility license authorized
20 by the Oklahoma Medical Marijuana and Patient Protection Act, or for
21 a renewal of such license, shall undergo an Oklahoma criminal
22 history background check conducted by the Oklahoma State Bureau of
23 Investigation (OSBI) within thirty (30) days prior to the
24 application for the license, including:

- 1 a. individual applicants applying on their own behalf,
- 2 b. individuals applying on behalf of an entity,
- 3 c. all principal officers of an entity, and
- 4 d. all owners of an entity as defined by the Oklahoma
- 5 Medical Marijuana and Patient Protection Act;

6 10. All applicable fees charged by the OSBI are the
7 responsibility of the applicant and shall not be higher than fees
8 charged to any other person or industry for such background checks;

9 11. In order to be considered an Oklahoma resident for purposes
10 of a medical marijuana business application, all applicants shall
11 provide proof of Oklahoma residency for at least two (2) years
12 immediately preceding the date of application or five (5) years of
13 continuous Oklahoma residency during the preceding twenty-five (25)
14 years immediately preceding the date of application. Sufficient
15 documentation of proof of residency shall include a combination of
16 the following:

- 17 a. an unexpired Oklahoma-issued driver license,
- 18 b. an Oklahoma identification card,
- 19 c. a utility bill preceding the date of application,
- 20 excluding cellular telephone and Internet bills,
- 21 d. a residential property deed to property in the State
- 22 of Oklahoma, and

1 e. a rental agreement preceding the date of application
2 for residential property located in the State of
3 Oklahoma.

4 Applicants that were issued a medical marijuana business license
5 prior to August 30, 2019, are hereby exempt from the two-year or
6 five-year Oklahoma residence requirement mentioned above;

7 12. All license applicants shall be required to submit a
8 registration with the Oklahoma State Bureau of Narcotics and
9 Dangerous Drugs Control as provided in Sections 2-302 through 2-304
10 of this title;

11 13. All applicants shall establish their identity through
12 submission of a color copy or digital image of one of the following
13 unexpired documents:

- 14 a. front of an Oklahoma driver license,
- 15 b. front of an Oklahoma identification card,
- 16 c. a United States passport or other photo identification
17 issued by the United States government, or
- 18 d. a tribal identification card approved for
19 identification purposes by the Oklahoma Department of
20 Public Safety; and

21 14. All applicants shall submit an applicant photograph.

22 F. The Authority shall review the medical marijuana business
23 application; approve, reject or deny the application; and mail the
24

1 approval, rejection, denial or status-update letter to the applicant
2 within ninety (90) business days of receipt of the application.

3 G. 1. The Authority shall review the medical marijuana
4 business applications and conduct all investigations, inspections
5 and interviews before approving the application.

6 2. Approved applicants shall be issued a medical marijuana
7 business license for the specific category applied under, which
8 shall act as proof of their approved status. Rejection and denial
9 letters shall provide a reason for the rejection or denial.
10 Applications may only be rejected or denied based on the applicant
11 not meeting the standards set forth in the provisions of the
12 Oklahoma Medical Marijuana and Patient Protection Act and Sections
13 420 through 426.1 of this title, improper completion of the
14 application, or for a reason provided for in the Oklahoma Medical
15 Marijuana and Patient Protection Act and Sections 420 through 426.1
16 of this title. If an application is rejected for failure to provide
17 required information, the applicant shall have thirty (30) days to
18 submit the required information for reconsideration. No additional
19 application fee shall be charged for such reconsideration. Unless
20 the ~~Department~~ Authority determines otherwise, an application that
21 has been resubmitted but is still incomplete or contains errors that
22 are not clerical or typographical in nature shall be denied.

23 3. Status-update letters shall provide a reason for delay in
24 either approval, rejection or denial should a situation arise in

1 which an application was submitted properly but a delay in
2 processing the application occurred.

3 4. Approval, rejection, denial or status-update letters shall
4 be sent to the applicant in the same method the application was
5 submitted to the ~~Department~~ Authority.

6 H. A license for a medical marijuana business, medical
7 marijuana research facility, medical marijuana education facility or
8 medical marijuana waste disposal facility shall not be issued to or
9 held by:

10 1. A person until all required fees have been paid;

11 2. A person who has been convicted of a nonviolent felony
12 within two (2) years of the date of application, or within five (5)
13 years for any other felony;

14 3. A corporation, if the criminal history of any of its
15 officers, directors or stockholders indicates that the officer,
16 director or stockholder has been convicted of a nonviolent felony
17 within two (2) years of the date of application, or within five (5)
18 years for any other felony;

19 4. A person under twenty-five (25) years of age;

20 5. A person licensed pursuant to this section who, during a
21 period of licensure, or who, at the time of application, has failed
22 to:

23 a. file taxes, interest or penalties due related to a
24 medical marijuana business, or

1 b. pay taxes, interest or penalties due related to a
2 medical marijuana business;

3 6. A sheriff, deputy sheriff, police officer or prosecuting
4 officer, or an officer or employee of the Authority or municipality;

5 7. A person whose authority to be a caregiver, as defined in
6 Section 427.2 of this title, has been revoked by the ~~Department~~
7 Authority; or

8 8. A person who was involved in the management or operations of
9 any medical marijuana business, medical marijuana research facility,
10 medical marijuana education facility or medical marijuana waste
11 disposal facility that, after the initiation of a disciplinary
12 action, has had a medical marijuana license revoked, not renewed, or
13 surrendered during the five (5) years preceding submission of the
14 application and for the following violations:

15 a. unlawful sales or purchases,

16 b. any fraudulent acts, falsification of records or
17 misrepresentation to the Authority, medical marijuana
18 patient licensees, caregiver licensees or medical
19 marijuana business licensees,

20 c. any grossly inaccurate or fraudulent reporting,

21 d. threatening or harming any medical marijuana patient,
22 caregiver, medical practitioner or employee of the
23 ~~Department~~ Authority,

- 1 e. knowingly or intentionally refusing to permit the
2 ~~Department~~ Authority access to premises or records,
3 f. using a prohibited, hazardous substance for processing
4 in a residential area,
5 g. criminal acts relating to the operation of a medical
6 marijuana business, or
7 h. any violations that endanger public health and safety
8 or product safety.

9 I. In investigating the qualifications of an applicant or a
10 licensee, the ~~Department,~~ Authority and municipalities may have
11 access to criminal history record information furnished by a
12 criminal justice agency subject to any restrictions imposed by such
13 an agency.

14 J. The failure of an applicant or licensee to provide the
15 requested information by the Authority deadline may be grounds for
16 denial of the application.

17 K. All applicants and licensees shall submit information to the
18 ~~Department and~~ Authority in a full, faithful, truthful and fair
19 manner. The ~~Department and~~ Authority may recommend denial of an
20 application where the applicant or licensee made misstatements,
21 omissions, misrepresentations or untruths in the application or in
22 connection with the background investigation of the applicant. This
23 type of conduct may be grounds for administrative action against the
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1 applicant or licensee. Typos and scrivener errors shall not be
2 grounds for denial.

3 L. A licensed medical marijuana business premises shall be
4 subject to and responsible for compliance with applicable provisions
5 consistent with the zoning where such business is located as
6 described in the most recent versions of the Oklahoma Uniform
7 Building Code, the International Building Code and the International
8 Fire Code, unless granted an exemption by a municipality or
9 appropriate code enforcement entity.

10 M. All medical marijuana business, medical marijuana research
11 facility, medical marijuana education facility and medical marijuana
12 waste disposal facility licensees shall pay the relevant licensure
13 fees prior to receiving licensure to operate.

14 N. A medical marijuana business, medical marijuana research
15 facility, medical marijuana education facility or medical marijuana
16 waste disposal facility that attempts to renew its license after the
17 expiration date of the license shall pay a late renewal fee in an
18 amount to be determined by the ~~Department~~ Authority to reinstate the
19 license. Late renewal fees are nonrefundable. A license that has
20 been expired for more than ninety (90) days shall not be renewed.

21 O. No medical marijuana business, medical marijuana research
22 facility, medical marijuana education facility or medical marijuana
23 waste disposal facility shall possess, sell or transfer medical
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1 marijuana or medical marijuana products without a valid, unexpired
2 license issued by the ~~Department~~ Authority.

3 SECTION 3. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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8 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/15/2022 - DO PASS,
9 As Amended and Coauthored.

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