

**First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 23-0752.01 Jason Gelender x4330

**HOUSE BILL 23-1166**

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**HOUSE SPONSORSHIP**

**Pugliese,**

**SENATE SPONSORSHIP**

**Will,**

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**House Committees**

Transportation, Housing & Local Government

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE ELIMINATION OF RETAIL DELIVERY FEES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

A retail delivery is a retail sale of tangible personal property that is subject to state sales tax by a retailer for delivery by a motor vehicle to the purchaser at any location in the state. As authorized by current law, retail delivery fees are imposed on each retail delivery by:

- The state;
- The community access enterprise;
- The clean fleet enterprise;
- The statewide bridge and tunnel enterprise;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

- The clean transit enterprise; and
- The nonattainment area air pollution mitigation enterprise.

Effective July 1, 2023, the bill eliminates the retail delivery fees by specifying that they may only be collected for the 2022-23 state fiscal year.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-38.5-302, **repeal**  
3 (11) as follows:

4 **24-38.5-302. Definitions.** As used in this part 3, unless the  
5 context otherwise requires:

6 (11) ~~"Inflation" means the average annual percentage change in~~  
7 ~~the United States department of labor, bureau of labor statistics, consumer~~  
8 ~~price index for Denver-Aurora-Lakewood for all items and all urban~~  
9 ~~consumers, or its applicable predecessor or successor index, for the five~~  
10 ~~years ending on the last December 31 before the state fiscal year for~~  
11 ~~which an inflation adjustment to be made to the community access retail~~  
12 ~~delivery fee imposed pursuant to section 24-38.5-303 (7) begins.~~

13 **SECTION 2.** In Colorado Revised Statutes, 24-38.5-303, **amend**  
14 (7); and **repeal** (6)(g) as follows:

15 **24-38.5-303. Community access enterprise - creation - board**  
16 **- powers and duties - fund - fee - transparency and reporting.** (6) In  
17 addition to any other powers and duties specified in this section, the board  
18 has the following general powers and duties:

19 (g) ~~To promulgate rules for the sole purpose of setting the amount~~  
20 ~~of the community access retail delivery fee at or below the maximum~~  
21 ~~amount authorized in this section, and~~

22 (7) (a) In furtherance of its business purpose, ~~beginning in~~ FOR  
23 state fiscal year 2022-23 ONLY, the enterprise shall impose, and the

1 department of revenue shall collect on behalf of the enterprise, a  
2 community access retail delivery fee on each retail delivery. Each retailer  
3 who makes a retail delivery shall add to the price of the retail delivery,  
4 collect from the purchaser, and pay to the department of revenue at the  
5 time and in the manner prescribed by the department in accordance with  
6 section 43-4-218 (6) the community access retail delivery fee. For the  
7 purpose of minimizing compliance costs for retailers and administrative  
8 costs for the state, the department of revenue shall collect and administer  
9 the community access retail delivery fee on behalf of the enterprise in the  
10 same manner in which it collects and administers the retail delivery fee  
11 imposed by section 43-4-218 (3).

12 (b) ~~For retail deliveries of tangible personal property purchased~~  
13 ~~during state fiscal year 2022-23,~~ The enterprise shall impose the  
14 community access retail delivery fee in a maximum amount of six and  
15 nine-tenths cents.

16 (c) ~~(f) Except as otherwise provided in subsection (7)(c)(H) of this~~  
17 ~~section, for retail deliveries of tangible personal property purchased~~  
18 ~~during state fiscal year 2023-24 or during any subsequent state fiscal year,~~  
19 ~~the enterprise shall impose the community access retail delivery fee in a~~  
20 ~~maximum amount that is the maximum amount for the prior state fiscal~~  
21 ~~year adjusted for inflation. The enterprise shall notify the department of~~  
22 ~~revenue of the amount of the community access retail delivery fee to be~~  
23 ~~collected for retail deliveries of tangible personal property purchased~~  
24 ~~during each state fiscal year no later than March 15 of the calendar year~~  
25 ~~in which the state fiscal year begins, and the department of revenue shall~~  
26 ~~publish the amount no later than April 15 of the calendar year in which the~~  
27 ~~state fiscal year begins.~~

1           ~~(H) The enterprise is authorized to adjust the amount of the~~  
2 ~~community access retail delivery fee for retail deliveries of tangible~~  
3 ~~personal property purchased during a state fiscal year only if the~~  
4 ~~department of revenue adjusts the amount of the retail delivery fee~~  
5 ~~imposed by section 43-4-218 (3) for retail deliveries of tangible personal~~  
6 ~~property purchased during the state fiscal year.~~

7           **SECTION 3.** In Colorado Revised Statutes, 25-7.5-102, **amend**  
8 (13) as follows:

9           **25-7.5-102. Definitions.** As used in this article 7.5, unless the  
10 context otherwise requires:

11           (13) "Inflation" means the average annual percentage change in  
12 the United States department of labor, bureau of labor statistics, consumer  
13 price index for Denver-Aurora-Lakewood for all items and all urban  
14 consumers, or its applicable predecessor or successor index, for the five  
15 years ending on the last December 31 before a state fiscal year for which  
16 an inflation adjustment to be made to the clean fleet per ride fee imposed  
17 by section 25-7.5-103 (7) ~~or the clean fleet retail delivery fee imposed by~~  
18 ~~section 25-7.5-103 (8)~~ begins.

19           **SECTION 4.** In Colorado Revised Statutes, 25-7.5-103, **amend**  
20 (6)(h) and (8) as follows:

21           **25-7.5-103. Clean fleet enterprise - creation - board - powers**  
22 **and duties - fees - fund.** (6) In addition to any other powers and duties  
23 specified in this section, the board has the following general powers and  
24 duties:

25           (h) To promulgate rules for the sole purpose of setting the  
26 amounts of the clean fleet per ride fee ~~and the clean fleet retail delivery~~  
27 ~~fee~~ at or below the maximum amounts authorized in this section; and

1           (8) (a) In furtherance of its business purpose, ~~beginning in~~ FOR  
2 state fiscal year 2022-23 ONLY, the enterprise shall impose, and the  
3 department of revenue shall collect on behalf of the enterprise, a clean  
4 fleet retail delivery fee on each retail delivery. Each retailer who makes  
5 a retail delivery shall add to the price of the retail delivery, collect from  
6 the purchaser, and pay to the department of revenue at the time and in the  
7 manner prescribed by the department in accordance with section 43-4-218  
8 (6) the clean fleet retail delivery fee. For the purpose of minimizing  
9 compliance costs for retailers and administrative costs for the state, the  
10 department of revenue shall collect and administer the clean fleet retail  
11 delivery fee on behalf of the enterprise in the same manner in which it  
12 collects and administers the retail delivery fee imposed by section  
13 43-4-218 (3).

14           (b) ~~For retail deliveries of tangible personal property purchased~~  
15 ~~during state fiscal year 2022-23~~, The enterprise shall impose the clean  
16 fleet retail delivery fee in a maximum amount of five and three-tenths  
17 cents.

18           (c) ~~(f) Except as otherwise provided in subsection (8)(c)(H) of this~~  
19 ~~section, for retail deliveries of tangible personal property purchased~~  
20 ~~during state fiscal year 2023-24 or during any subsequent state fiscal year,~~  
21 ~~the enterprise shall impose the clean fleet retail delivery fee in a~~  
22 ~~maximum amount that is the maximum amount for the prior state fiscal~~  
23 ~~year adjusted for inflation. The enterprise shall notify the department of~~  
24 ~~revenue of the amount of the clean fleet retail delivery fee to be collected~~  
25 ~~for retail deliveries of tangible personal property purchased during each~~  
26 ~~state fiscal year no later than March 15 of the calendar year in which the~~  
27 ~~state fiscal year begins, and the department of revenue shall publish the~~

1 amount no later than April 15 of the calendar year in which the state fiscal  
2 year begins:

3 ~~(H) The enterprise is authorized to adjust the amount of the clean~~  
4 ~~fleet retail delivery fee for retail deliveries of tangible personal property~~  
5 ~~purchased during a state fiscal year only if the department of revenue~~  
6 ~~adjusts the amount of the retail delivery fee imposed by section 43-4-218~~  
7 ~~(3) for retail deliveries of tangible personal property purchased during the~~  
8 ~~state fiscal year.~~

9 **SECTION 5.** In Colorado Revised Statutes, 43-4-218, **amend**  
10 **(3)(a); and repeal (2)(b) and (3)(b) as follows:**

11 **43-4-218. Additional funding - retail delivery fee - fund**  
12 **created - simultaneous collection of enterprise fees - rules - legislative**  
13 **declaration - definitions.** (2) As used in this section, unless the context  
14 otherwise requires:

15 (b) "Inflation" means the average annual percentage change in the  
16 United States department of labor, bureau of labor statistics, consumer  
17 price index for Denver-Aurora-Lakewood for all items and all urban  
18 consumers, or its applicable predecessor or successor index, for the five  
19 years ending on the last December 31 before the calendar year in which  
20 a state fiscal year for which an inflation adjustment to the retail delivery  
21 fee imposed by subsection (3) of this section is to be made begins.

22 (3) (a) For retail deliveries of tangible personal property  
23 purchased during state fiscal year 2022-23 ONLY, each retailer who makes  
24 a retail delivery shall add to the price of the retail delivery, collect from  
25 the purchaser, and pay to the department of revenue at the time and in the  
26 manner prescribed by the department in accordance with subsection (6)  
27 of this section a retail delivery fee in the amount of eight and four-tenths

1 cents.

2 (b) (I) ~~Except as otherwise provided in subsection (3)(c) of this~~  
3 ~~section, for retail deliveries of tangible personal property purchased~~  
4 ~~during state fiscal year 2023-24 or during any subsequent state fiscal year,~~  
5 ~~each retailer who makes a retail delivery shall add to the price of the retail~~  
6 ~~delivery, collect from the purchaser, and pay to the department of revenue~~  
7 ~~at the time and in the manner prescribed by the department in accordance~~  
8 ~~with subsection (6) of this section a retail delivery fee equal to the amount~~  
9 ~~of the retail delivery fee for retail deliveries of tangible personal property~~  
10 ~~purchased during the prior state fiscal year adjusted for inflation. The~~  
11 ~~department of revenue shall annually calculate the inflation adjusted~~  
12 ~~amount of the retail delivery fee to be imposed on retail deliveries of~~  
13 ~~tangible personal property purchased during each state fiscal year and~~  
14 ~~shall publish the amount no later than April 15 of the calendar year in~~  
15 ~~which the state fiscal year begins.~~

16 (II) ~~The department of revenue shall adjust the amount of the~~  
17 ~~retail delivery fee for retail deliveries of tangible personal property~~  
18 ~~purchased during a state fiscal year only if inflation is positive and~~  
19 ~~cumulative inflation from the time of the last adjustment in the amount of~~  
20 ~~the retail delivery fee, when applied to the sum of the current retail~~  
21 ~~delivery fee and all current enterprise retail delivery fees and rounded to~~  
22 ~~the nearest whole cent, will result in an increase of at least one whole cent~~  
23 ~~in the total amount of the retail delivery fee and all enterprise retail~~  
24 ~~delivery fees imposed on each retail delivery. The amount of cumulative~~  
25 ~~inflation to be applied to the sum of the current retail delivery fee and all~~  
26 ~~current enterprise retail delivery fees and rounded to the nearest whole~~  
27 ~~cent is the lesser of actual cumulative inflation or five percent.~~

1           **SECTION 6.** In Colorado Revised Statutes, 43-4-805, **amend**  
2 (5)(g.7)(I) and (5)(g.7)(II); and **repeal** (5)(g.7)(III) and (5)(g.7)(IV)(A)  
3 as follows:

4           **43-4-805. Statewide bridge enterprise - creation - board -**  
5 **funds - powers and duties - legislative declaration - definitions.** (5) In  
6 addition to any other powers and duties specified in this section, the  
7 bridge enterprise board has the following powers and duties:

8           (g.7) (I) In furtherance of its business purpose, ~~beginning in~~ FOR  
9 state fiscal year 2022-23 ONLY, the bridge enterprise shall impose, and the  
10 department of revenue shall collect on behalf of the bridge enterprise, a  
11 bridge and tunnel retail delivery fee on each retail delivery. Each retailer  
12 who makes a retail delivery shall add to the price of the retail delivery,  
13 collect from the purchaser, and pay to the department of revenue at the  
14 time and in the manner prescribed by the department in accordance with  
15 section 43-4-218 (6) the bridge and tunnel retail delivery fee. For the  
16 purpose of minimizing compliance costs for retailers and administrative  
17 costs for the state, the department of revenue shall collect and administer  
18 the bridge and tunnel retail delivery fee on behalf of the bridge enterprise  
19 in the same manner in which it collects and administers the retail delivery  
20 fee imposed by section 43-4-218 (3).

21           ~~(II) For retail deliveries of tangible personal property purchased~~  
22 ~~during state fiscal year 2022-23~~; The bridge enterprise shall impose the  
23 bridge and tunnel retail delivery fee in a maximum amount of two and  
24 seven-tenths cents.

25           ~~(III) (A) Except as otherwise provided in subsection~~  
26 ~~(5)(g.7)(III)(B) of this section, for retail deliveries of tangible personal~~  
27 ~~property purchased during state fiscal year 2023-24 or during any~~



1 subsequent state fiscal year, the bridge enterprise shall impose the bridge  
2 and tunnel retail delivery fee in a maximum amount that is the maximum  
3 amount for the prior state fiscal year adjusted for inflation. The bridge  
4 enterprise shall notify the department of revenue of the amount of the  
5 bridge and tunnel retail delivery fee to be collected for retail deliveries of  
6 tangible personal property purchased during each state fiscal year no later  
7 than March 15 of the calendar year in which the state fiscal year begins,  
8 and the department of revenue shall publish the amount no later than  
9 April 15 of the calendar year in which the state fiscal year begins.

10 (B) ~~The bridge enterprise is authorized to adjust the amount of the~~  
11 ~~bridge and tunnel retail delivery fee for retail deliveries of tangible~~  
12 ~~personal property purchased during a state fiscal year only if the~~  
13 ~~department of revenue adjusts the amount of the retail delivery fee~~  
14 ~~imposed by section 43-4-218 (3) for retail deliveries of tangible personal~~  
15 ~~property purchased during the state fiscal year.~~

16 (IV) As used in this subsection (5)(g.7):

17 (A) "Inflation" means the average annual percentage change in the  
18 United States department of labor, bureau of labor statistics, consumer  
19 price index for Denver-Aurora-Lakewood for all items and all urban  
20 consumers, or its applicable predecessor or successor index, for the five  
21 years ending on the last December 31 before a state fiscal year for which  
22 an inflation adjustment to be made to the bridge and tunnel retail delivery  
23 fee imposed pursuant to this subsection (5)(g.7) begins.

24 **SECTION 7.** In Colorado Revised Statutes, 43-4-1202, **repeal**  
25 (11) as follows:

26 **43-4-1202. Definitions.** As used in this part 12, unless the context  
27 otherwise requires:

1           (11) ~~"Inflation" means the average annual percentage change in~~  
2 ~~the United States department of labor, bureau of labor statistics, consumer~~  
3 ~~price index for Denver-Aurora-Lakewood for all items and all urban~~  
4 ~~consumers, or its applicable predecessor or successor index, for the five~~  
5 ~~years ending on the last December 31 before a state fiscal year for which~~  
6 ~~an inflation adjustment to be made to the clean transit retail delivery fee~~  
7 ~~imposed pursuant to section 43-4-1203 (7) begins.~~

8           **SECTION 8.** In Colorado Revised Statutes, 43-4-1203, **amend**  
9 (6)(g) and (7) as follows:

10           **43-4-1203. Clean transit enterprise - creation - board - powers**  
11 **and duties - rules - fees - fund.** (6) In addition to any other powers and  
12 duties specified in this section, the board has the following general  
13 powers and duties:

14           (g) ~~To promulgate rules to set the amount of the clean transit retail~~  
15 ~~delivery fee at or below the maximum amount authorized in this section~~  
16 ~~and to govern the process by which the enterprise accepts applications~~  
17 ~~for, awards, and oversees grants, loans, and rebates pursuant to subsection~~  
18 (8) of this section; and

19           (7) (a) In furtherance of its business purpose, ~~beginning in~~ FOR  
20 state fiscal year 2022-23 ONLY, the enterprise shall impose, and the  
21 department of revenue shall collect on behalf of the enterprise, a clean  
22 transit retail delivery fee on each retail delivery. Each retailer who makes  
23 a retail delivery shall add to the price of the retail delivery, collect from  
24 the purchaser, and pay to the department of revenue at the time and in the  
25 manner prescribed by the department in accordance with section 43-4-218  
26 (6) the clean transit retail delivery fee. For the purpose of minimizing  
27 compliance costs for retailers and administrative costs for the state, the

1 department of revenue shall collect and administer the clean transit retail  
2 delivery fee on behalf of the enterprise in the same manner in which it  
3 collects and administers the retail delivery fee imposed by section  
4 43-4-218 (3).

5 (b) ~~For retail deliveries of tangible personal property purchased~~  
6 ~~during state fiscal year 2022-23~~, The enterprise shall impose the clean  
7 transit retail delivery fee in a maximum amount of three cents.

8 (c) ~~(f) Except as otherwise provided in subsection (7)(c)(H) of this~~  
9 ~~section, for retail deliveries of tangible personal property purchased~~  
10 ~~during state fiscal year 2023-24 or during any subsequent state fiscal year,~~  
11 ~~the enterprise shall impose the clean transit retail delivery fee in a~~  
12 ~~maximum amount that is the maximum amount for the prior state fiscal~~  
13 ~~year adjusted for inflation. The enterprise shall notify the department of~~  
14 ~~revenue of the amount of the clean transit retail delivery fee to be~~  
15 ~~collected for retail deliveries of tangible personal property purchased~~  
16 ~~during each state fiscal year no later than March 15 of the calendar year~~  
17 ~~in which the state fiscal year begins, and the department of revenue shall~~  
18 ~~publish the amount no later than April 15 of the calendar year in which the~~  
19 ~~state fiscal year begins.~~

20 ~~(H) The enterprise is authorized to adjust the amount of the clean~~  
21 ~~transit retail delivery fee for retail deliveries of tangible personal property~~  
22 ~~purchased during a state fiscal year only if the department of revenue~~  
23 ~~adjusts the amount of the retail delivery fee imposed by section 43-4-218~~  
24 ~~(3) for retail deliveries of tangible personal property purchased during the~~  
25 ~~state fiscal year.~~

26 **SECTION 9.** In Colorado Revised Statutes, 43-4-1302, **amend**  
27 (15) as follows:

1           **43-4-1302. Definitions.** As used in this part 13, unless the context  
2 otherwise requires:

3           (15) "Inflation" means the average annual percentage change in  
4 the United States department of labor, bureau of labor statistics, consumer  
5 price index for Denver-Aurora-Lakewood for all items and all urban  
6 consumers, or its applicable predecessor or successor index, for the five  
7 years ending on the last December 31 before a state fiscal year for which  
8 an inflation adjustment to be made to the air pollution mitigation per ride  
9 fee imposed by section 43-4-1303 (7) ~~or the air pollution mitigation retail~~  
10 ~~delivery fee imposed by section 43-4-1303 (8)~~ begins.

11           **SECTION 10.** In Colorado Revised Statutes, 43-4-1303, **amend**  
12 (6)(h) and (8) as follows:

13           **43-4-1303. Nonattainment area air pollution mitigation**  
14 **enterprise - creation - board - powers and duties - rules - fees - fund.**

15 (6) In addition to any other powers and duties specified in this section,  
16 the board has the following general powers and duties:

17           (h) To promulgate rules for the sole purpose of setting the  
18 amounts of the air pollution mitigation per ride fee ~~and the air pollution~~  
19 ~~mitigation retail delivery fee~~ at or below the maximum amounts  
20 authorized in this section; and

21           (8) (a) In furtherance of its business purpose, ~~beginning in~~ FOR  
22 state fiscal year 2022-23 ONLY, the enterprise shall impose, and the  
23 department of revenue shall collect on behalf of the enterprise, an air  
24 pollution mitigation retail delivery fee on each retail delivery. Each  
25 retailer who makes a retail delivery shall add to the price of the retail  
26 delivery, collect from the purchaser, and pay to the department of revenue  
27 at the time and in the manner prescribed by the department in accordance

1 with section 43-4-218 (6) the air pollution mitigation retail delivery fee.  
2 For the purpose of minimizing compliance costs for retailers and  
3 administrative costs for the state, the department of revenue shall collect  
4 and administer the air pollution mitigation retail delivery fee on behalf of  
5 the enterprise in the same manner in which it collects and administers the  
6 retail delivery fee imposed by section 43-4-218 (3).

7 (b) ~~For retail deliveries of tangible personal property purchased~~  
8 ~~during state fiscal year 2022-23~~, The enterprise shall impose the air  
9 pollution mitigation retail delivery fee in a maximum amount of  
10 seven-tenths of one cent.

11 (c) ~~(f) Except as otherwise provided in subsection (8)(c)(H) of this~~  
12 ~~section, for retail deliveries of tangible personal property purchased~~  
13 ~~during state fiscal year 2023-24 or during any subsequent state fiscal year,~~  
14 ~~the enterprise shall impose the air pollution mitigation retail delivery fee~~  
15 ~~in a maximum amount that is the maximum amount for the prior state~~  
16 ~~fiscal year adjusted for inflation. The enterprise shall notify the~~  
17 ~~department of revenue of the amount of the air pollution mitigation retail~~  
18 ~~delivery fee to be collected for retail deliveries of tangible personal~~  
19 ~~property purchased during each state fiscal year no later than March 15~~  
20 ~~of the calendar year in which the state fiscal year begins, and the~~  
21 ~~department of revenue shall publish the amount no later than April 15 of~~  
22 ~~the calendar year in which the state fiscal year begins.~~

23 ~~(H) The enterprise is authorized to adjust the amount of the air~~  
24 ~~pollution mitigation retail delivery fee for retail deliveries of tangible~~  
25 ~~personal property purchased during a state fiscal year only if the~~  
26 ~~department of revenue adjusts the amount of the retail delivery fee~~  
27 ~~imposed by section 43-4-218 (3) for retail deliveries of tangible personal~~

1 ~~property purchased during the state fiscal year.~~

2           **SECTION 11. Effective date.** This act takes effect upon passage;  
3 except that the repeal of section 24-38.5-303 (6)(g), Colorado Revised  
4 Statutes, in section 2 of this act; section 25-7.5-103 (6)(h), amended in  
5 section 4 of this act; section 43-4-1203 (6)(g), amended in section 8 of  
6 this act; and section 43-4-1303 (6)(h), amended in section 10 of this act,  
7 take effect July 1, 2023.

8           **SECTION 12. Safety clause.** The general assembly hereby finds,  
9 determines, and declares that this act is necessary for the immediate  
10 preservation of the public peace, health, or safety.