

A BILL FOR AN ACT
CONCERNING THE ELIMINATION OF RETAIL DELIVERY FEES

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

Effective January 1st, of the following year upon passage the bill eliminates the retail delivery fees by specifying that they may only be collected for the state fiscal year and any future monetary amounts imposed by the enterprises may never exceed one half of one percent of the delivery and requires a vote of the people.

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

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

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

~~11) "Inflation" means the average annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver Aurora Lakewood for all items and all urban consumers, or its applicable predecessor or successor index, for the five years ending on the last~~

~~December 31 before the state fiscal year for which an inflation adjustment to be made to the community access retail delivery fee imposed pursuant to section 24-38.5-303 (7) begins.~~

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

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

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

(7) (a) In furtherance of its business purpose, ~~beginning in~~ until January 1st, of the following year upon passage ONLY, the enterprise shall impose, and the department of revenue shall collect on behalf of the enterprise, a community access retail delivery fee on each retail delivery. Each retailer who makes a retail delivery shall add to the price of the retail delivery, collect from the purchaser, and pay to the department of revenue at the time and in the manner prescribed by the department in accordance with section 43-4-218 (6) the community access retail delivery fee. For the purpose of minimizing compliance costs for retailers and administrative costs for the state, the department of revenue shall collect and administer the community access retail delivery fee on behalf of the enterprise in the same manner in which it collects and administers the retail delivery fee imposed by section 43-4-218 (3).

~~(b) For retail deliveries of tangible personal property purchased during state fiscal year 2022--23, the enterprise shall impose the community access retail delivery fee in a maximum amount of six and nine tenths cents.~~ The enterprise shall impose the current community access retail delivery fee until January 1st, of the following year upon passage ONLY. Any future monetary amounts imposed by the enterprise may never exceed one half of one percent of the delivery and requires a vote of the people. Additionally any amount collected must be refunded to the purchaser for unsuccessful deliveries to include but not limited to lost, stolen, damaged or cancellations before shipment.

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

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

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

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

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

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

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

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

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

(b) ~~For retail deliveries of tangible personal property purchased during state fiscal year 2022-23, the enterprise shall impose the clean fleet retail delivery fee in a maximum amount of five and three-tenths cents.~~ The enterprise shall impose the current clean fleet retail delivery fee until January 1st, of the following year upon passage ONLY. Any future monetary amounts imposed by the enterprise may never exceed one half of one percent of the delivery and requires a vote of the people. Additionally any amount collected must be refunded to the purchaser for unsuccessful deliveries to include but not limited to lost, stolen, damaged or cancellations before shipment.

~~(c) (i) Except as otherwise provided in subsection (8)(c)(ii) of this section, for retail deliveries of tangible personal property purchased during state fiscal year 2023-24 or during any subsequent state fiscal year, the enterprise shall impose the clean fleet retail delivery fee in a maximum amount that is the maximum amount for the prior state fiscal year adjusted for inflation. The enterprise shall notify the department of revenue of the amount of the clean fleet retail delivery fee to be collected for retail~~

deliveries of tangible personal property purchased during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins, and the department of revenue shall publish the amount no later than April 15 of the calendar year in which the state fiscal year begins.

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

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

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

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

(3) (a) For retail deliveries of tangible personal property purchased during state fiscal year 2022-23 ONLY, each retailer who makes a retail delivery shall add to the price of the retail delivery, collect from the purchaser, and pay to the department of revenue at the time and in the manner prescribed by the department in accordance with subsection (6) of this section a retail delivery fee in the amount of eight and four-tenths cents. For retail deliveries of tangible personal property purchased each retailer who makes a retail delivery shall add to the price of the retail delivery, collect from the purchaser, and pay to the department of revenue at the time and in the manner prescribed by the department in accordance with subsection (6) of this section the current retail delivery fee amount until January 1st, of the following year upon passage ONLY. Any future monetary amounts imposed by the enterprise may never exceed one half of one percent of the delivery and requires a vote of the people. Additionally any amount collected must be refunded to the purchaser for unsuccessful deliveries to include but not limited to lost, stolen, damaged or cancellations before shipment.

(b) (I) Except as otherwise provided in subsection (3)(c) of this section, for retail deliveries of tangible personal property purchased during state fiscal year 2023-24 or during any subsequent state fiscal year, each retailer who makes a retail delivery shall add to the price of the retail delivery, collect from the purchaser, and pay to the department of revenue at the time and in the manner prescribed by the department in accordance with subsection (6) of this section a retail delivery fee equal to the amount of the retail delivery fee for retail deliveries of tangible personal property purchased during the prior state fiscal year adjusted for inflation. The department of revenue shall annually calculate the inflation adjusted amount of the retail delivery fee to be imposed on retail deliveries of tangible

personal property purchased during each state fiscal year and shall publish the amount no later than April 15 of the calendar year in which the state fiscal year begins.

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

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

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

(g.7) (I) In furtherance of its business purpose, ~~beginning in~~ until January 1st, of the following year upon passage ONLY, the bridge enterprise shall impose, and the department of revenue shall collect on behalf of the bridge enterprise, a bridge and tunnel retail delivery fee on each retail delivery. Each retailer who makes a retail delivery shall add to the price of the retail delivery, collect from the purchaser, and pay to the department of revenue at the time and in the manner prescribed by the department in accordance with section 43-4-218 (6) the bridge and tunnel retail delivery fee. For the purpose of minimizing compliance costs for retailers and administrative costs for the state, the department of revenue shall collect and administer the bridge and tunnel retail delivery fee on behalf of the bridge enterprise in the same manner in which it collects and administers the retail delivery fee imposed by section 43-4-218 (3).

~~(II) For retail deliveries of tangible personal property purchased during state fiscal year 2022-23, the bridge enterprise shall impose the bridge and tunnel retail delivery fee in a maximum amount of two and seven-tenths cents.~~ The enterprise shall impose the current bridge and tunnel retail delivery fee until January 1st, of the following year upon passage ONLY. Any future monetary amounts imposed by the enterprise may never exceed one half of one percent of the delivery and requires a vote of the people. Additionally any amount collected must be refunded to the purchaser for unsuccessful deliveries to include but not limited to lost, stolen, damaged or cancellations before shipment.

~~(III) (A) Except as otherwise provided in subsection (5)(g.7)(III)(B) of this section, for retail deliveries of tangible personal property purchased during state fiscal year 2023-24 or during any subsequent state fiscal year, the bridge enterprise shall impose the bridge and tunnel retail delivery fee in a maximum amount that is the maximum amount for the prior state fiscal year adjusted for inflation. The bridge enterprise shall notify the department of revenue of the amount of the bridge and tunnel~~

~~retail delivery fee to be collected for retail deliveries of tangible personal property purchased during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins, and the department of revenue shall publish the amount no later than April 15 of the calendar year in which the state fiscal year begins. (B) The bridge enterprise is authorized to adjust the amount of the bridge and tunnel retail delivery fee for retail deliveries of tangible personal property purchased during a state fiscal year only if the department of revenue adjusts the amount of the retail delivery fee imposed by section 43-4-218 (3) for retail deliveries of tangible personal property purchased during the state fiscal year.~~

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

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

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

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

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

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

43-4-1203. Clean transit enterprise - creation - board - powers and duties - rules - fees - fund.

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

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

(7) (a) In furtherance of its business purpose, ~~beginning in~~ until January 1st, of the following year upon passage ONLY, the enterprise shall impose, and the department of revenue shall collect on behalf of the enterprise, a clean transit retail delivery fee on each retail delivery. Each retailer who makes a retail delivery shall add to the price of the retail delivery, collect from the purchaser, and pay to the department of revenue at the time and in the manner prescribed by the department in accordance with section 43-4-21825 (6) the clean transit retail delivery fee. For the purpose of minimizing compliance costs for retailers and administrative costs for the state, the department of revenue shall collect and

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

~~(b) For retail deliveries of tangible personal property purchased during state fiscal year 2022-23, the enterprise shall impose the clean transit retail delivery fee in a maximum amount of three cents. The enterprise shall impose the current clean transit retail delivery fee until January 1st, of the following year upon passage ONLY. Any future monetary amounts imposed by the enterprise may never exceed one half of one percent of the delivery and requires a vote of the people. Additionally any amount collected must be refunded to the purchaser for unsuccessful deliveries to include but not limited to lost, stolen, damaged or cancellations before shipment.~~

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

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

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

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

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

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

43-4-1303. Nonattainment area air pollution mitigation enterprise - creation - board - powers and duties - rules - fees - fund. (6) In addition to any other powers and duties specified in this section, the board has the following general powers and duties:

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

(8) (a) In furtherance of its business purpose, ~~beginning in~~ until January 1st, of the following year upon passage ONLY, the enterprise shall impose, and the department of revenue shall collect on behalf of the enterprise, an air pollution mitigation retail delivery fee on each retail delivery. Each retailer who makes a retail delivery shall add to the price of the retail delivery, collect from the purchaser, and pay to the department of revenue at the time and in the manner prescribed by the department in accordance with section 43-4-218 (6) the air pollution mitigation retail delivery fee. For the purpose of minimizing compliance costs for retailers and administrative costs for the state, the department of revenue shall collect and administer the air pollution mitigation retail delivery fee on behalf of the enterprise in the same manner in which it collects and administers the retail delivery fee imposed by section 43-4-218 (3).

~~(b) For retail deliveries of tangible personal property purchased during state fiscal year 2022-23, the enterprise shall impose the air pollution mitigation retail delivery fee in a maximum amount of seven tenths of one cent. The enterprise shall impose the current air pollution mitigation retail delivery fee until January 1st, of the following year upon passage ONLY. Any future monetary amounts imposed by the enterprise may never exceed one half of one percent of the delivery and requires a vote of the people. Additionally any amount collected must be refunded to the purchaser for unsuccessful deliveries to include but not limited to lost, stolen, damaged or cancellations before shipment.~~

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

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

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

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