

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

INTRODUCED

LLS NO. 23-0306.01 Ed DeCecco x4216

SENATE BILL 23-143

SENATE SPONSORSHIP

Fenberg and Van Winkle,

HOUSE SPONSORSHIP

(None),

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ADMINISTRATION OF THE EXISTING RETAIL**
102 **DELIVERY FEES COLLECTED BY THE DEPARTMENT OF REVENUE.**

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>.)

Currently, the state and several state enterprises impose fees on retail sales of taxable tangible personal property delivered by motor vehicle to a location in the state. These fees are collectively known as the retail delivery fee (RDF), and a retailer who makes a retail delivery is required to add the RDF to the price of the retail delivery, collect it from the purchaser, and pay the RDF revenue to the department of revenue

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.*

(department), which distributes the revenue to the appropriate cash funds.

The department generally administers the RDF in the same manner as the state sales and use tax. The bill modifies this administration by permitting a retailer to pay the RDF on behalf of the purchaser. If the retailer elects to pay the RDF, then the retailer is:

- Not required to add the RDF to the price of the retail delivery, separately itemize the RDF, or collect the RDF from the purchaser, who is not liable for the amount nor eligible for a refund of an erroneously paid RDF; and
- Required to remit the RDF on the date that would be required if the RDF had been received from the purchaser on the date of the retail delivery.

The department is required to waive any processing costs for a retailer's electronic payment by automated clearing house (ACH) debit of the RDF if the charges would exceed the amount of the RDF revenue being remitted.

The bill creates an exemption from the RDF for a retail delivery by a qualified business, which is a business that has \$500,000 or less of retail sales in the prior year or is new, that applies retroactively to when RDFs were first imposed. A purchaser is not eligible for a refund of any RDF that is collected and remitted to the department by a qualified business prior to the effective date of the bill.

The bill also creates a primary definition for "retail delivery" that is cross-referenced in other RDF provisions, and related to this change, a definition of "retail sale" is repealed where the cross reference makes it unnecessary.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-38.5-301, **amend**
3 (2)(c) introductory portion as follows:

4 **24-38.5-301. Legislative declaration.** (2) The general assembly
5 further finds and declares that:

6 (c) The enterprise provides impact remediation services when, in
7 exchange for the payment of community access retail delivery fees by OR
8 ON BEHALF OF purchasers of tangible personal property for retail delivery,
9 it acts to mitigate the impacts of residential and commercial deliveries on
10 the state's transportation infrastructure, air quality, and emissions by:

1 **SECTION 2.** In Colorado Revised Statutes, 24-38.5-302, **amend**
2 (17); and **repeal** (19) as follows:

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

5 (17) "~~Retail delivery~~" ~~means a retail sale of tangible personal~~
6 ~~property by a retailer for delivery by a motor vehicle owned or operated~~
7 ~~by the retailer or any other person to the purchaser at a location in the~~
8 ~~state, which sale includes at least one item of tangible personal property~~
9 ~~that is subject to taxation under article 26 of title 39. Each such retail sale~~
10 ~~is a single retail delivery regardless of the number of shipments necessary~~
11 ~~to deliver the items of tangible personal property purchased~~ HAS THE
12 SAME MEANING AS SET FORTH IN SECTION 43-4-218 (2)(e).

13 (19) "~~Retail sale~~" ~~has the same meaning as set forth in section~~
14 ~~39-26-102 (9).~~

15 **SECTION 3.** In Colorado Revised Statutes, 24-38.5-303, **amend**
16 (7)(a) as follows:

17 **24-38.5-303. Community access enterprise - creation - board**
18 **- powers and duties - fund - fee - transparency and reporting.**

19 (7) (a) In furtherance of its business purpose, beginning in state fiscal
20 year 2022-23, the enterprise shall impose, and the department of revenue
21 shall collect on behalf of the enterprise, a community access retail
22 delivery fee on each retail delivery. Each retailer who makes a retail
23 delivery shall ~~add to the price of the retail delivery,~~ EITHER collect from
24 ~~the purchaser, and pay to the department of revenue at the time~~ and REMIT
25 OR ELECT TO PAY THE COMMUNITY ACCESS RETAIL DELIVERY FEE in the
26 manner prescribed by the department in accordance with section 43-4-218
27 (6). ~~the community access retail delivery fee.~~ For the purpose of

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

6 **SECTION 4.** In Colorado Revised Statutes, 25-7.5-102, **amend**
7 (21); and **repeal** (23) as follows:

8 **25-7.5-102. Definitions.** As used in this article 7.5, unless the
9 context otherwise requires:

10 (21) "Retail delivery" ~~means a retail sale of tangible personal~~
11 ~~property by a retailer for delivery by a motor vehicle owned or operated~~
12 ~~by the retailer or any other person to the purchaser at a location in the~~
13 ~~state, which sale includes at least one item of tangible personal property~~
14 ~~that is subject to taxation under article 26 of title 39. Each such retail sale~~
15 ~~is a single retail delivery regardless of the number of shipments necessary~~
16 ~~to deliver the items of tangible personal property purchased~~ HAS THE
17 SAME MEANING AS SET FORTH IN SECTION 43-4-218 (2)(e).

18 (23) "Retail sale" ~~has the same meaning as set forth in section~~
19 ~~39-26-102 (9).~~

20 **SECTION 5.** In Colorado Revised Statutes, 25-7.5-103, **amend**
21 (8)(a) as follows:

22 **25-7.5-103. Clean fleet enterprise - creation - board - powers**
23 **and duties - fees - fund.** (8) (a) In furtherance of its business purpose,
24 beginning in state fiscal year 2022-23, the enterprise shall impose, and the
25 department of revenue shall collect on behalf of the enterprise, a clean
26 fleet retail delivery fee on each retail delivery. Each retailer who makes
27 a retail delivery shall ~~add to the price of the retail delivery,~~ EITHER collect

1 from the purchaser, and pay to the department of revenue at the time and
2 REMIT OR ELECT TO PAY THE CLEAN FLEET RETAIL DELIVERY FEE in the
3 manner prescribed by the department in accordance with section 43-4-218
4 (6). ~~the clean fleet retail delivery fee.~~ For the purpose of minimizing
5 compliance costs for retailers and administrative costs for the state, the
6 department of revenue shall collect and administer the clean fleet retail
7 delivery fee on behalf of the enterprise in the same manner in which it
8 collects and administers the retail delivery fee imposed by section
9 43-4-218 (3).

10 **SECTION 6.** In Colorado Revised Statutes, 43-4-218, **amend**
11 (1)(e)(II), (1)(e)(III), (3)(a), (3)(b)(I), (6)(a), (6)(b), (6)(c), and (6)(d); and
12 **add** (1)(d.3), (1)(d.7), (1)(e)(IV), (3)(d), and (6)(f) as follows:

13 **43-4-218. Additional funding - retail delivery fee - fund**
14 **created - simultaneous collection of enterprise fees - rules - legislative**
15 **declaration - definitions.** (1) The general assembly hereby finds and
16 declares that:

17 (d.3) THERE ARE ADMINISTRATIVE COSTS FOR A RETAILER WHEN
18 THE STATE IMPOSES A FEE ON RETAIL DELIVERIES, AND THE BENEFITS FROM
19 THE FEE REVENUE NEED TO BE BALANCED WITH THE POTENTIAL ECONOMIC
20 IMPACTS ON THE RETAILERS;

21 (d.7) FEES ON RETAIL DELIVERIES SHOULD ONLY BE IMPOSED ON
22 RETAILERS THAT ARE LARGE ENOUGH TO ABSORB THESE ADMINISTRATIVE
23 COSTS WITHOUT SIGNIFICANT ECONOMIC HARM;

24 (e) It is therefore necessary and appropriate:

25 (II) To authorize the community access enterprise created in
26 section 24-38.5-303 (1) to impose a community access retail delivery fee
27 as specified in section 24-38.5-303 (7), authorize the clean fleet enterprise

1 created in section 25-7.5-103 (1)(a) to impose a clean fleet retail delivery
2 fee as specified in section 25-7.5-103 (8), authorize the statewide bridge
3 and tunnel enterprise created in section 43-4-805 (2)(a)(I) to impose a
4 bridge and tunnel retail delivery fee as specified in section 43-4-805
5 (5)(g.7), authorize the clean transit enterprise created in section
6 43-4-1203 (1)(a) to impose a clean transit retail delivery fee as specified
7 in section 43-4-1203 (7), and authorize the nonattainment area air
8 pollution mitigation enterprise created in section 43-4-1303 (1)(a) to
9 impose an air pollution mitigation retail delivery fee as specified in
10 section 43-1-1303 (8) to help fund the enterprises' pursuit of their
11 respective business purposes; and

12 (III) For the purpose of minimizing compliance costs for fee
13 payers and administrative costs for the state, to require the department of
14 revenue to collect the retail delivery fees imposed by the enterprises on
15 behalf of the enterprises when it collects the retail delivery fee imposed
16 by subsection (3) of this section and to distribute the enterprise fee
17 revenue to the enterprises; AND

18 (IV) TO CREATE AN EXEMPTION FROM THE RETAIL DELIVERY FEES
19 FOR RETAILERS WITH RETAIL SALES OF FIVE HUNDRED THOUSAND DOLLARS
20 OR LESS.

21 (3) (a) A RETAIL DELIVERY FEE IN AN AMOUNT SET FORTH IN THIS
22 SUBSECTION (3)(a) AND SUBSECTION (3)(b) OF THIS SECTION IS IMPOSED
23 ON EACH RETAIL DELIVERY. EXCEPT AS OTHERWISE PROVIDED IN
24 SUBSECTION (6)(b)(II) OF THIS SECTION, for retail deliveries of tangible
25 personal property purchased during state fiscal year 2022-23, each retailer
26 who makes a retail delivery shall add to the price of the retail delivery,
27 collect from the purchaser, and pay to the department of revenue at the

1 time and in the manner prescribed by the department in accordance with
2 subsection (6) of this section a retail delivery fee in the amount of eight
3 and four-tenths cents.

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

18 (d) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
19 RETAIL DELIVERY BY A QUALIFIED BUSINESS MADE ON OR AFTER JULY 1,
20 2022, IS EXEMPT FROM THE RETAIL DELIVERY FEE IMPOSED BY THIS
21 SUBSECTION (3) AND THE ENTERPRISE RETAIL DELIVERY FEES.

22 (II) THERE ARE NO REFUNDS UNDER SECTION 39-26-703 OF ANY
23 RETAIL DELIVERY FEES FOR A RETAIL DELIVERY MADE ON OR AFTER JULY
24 1, 2022, BUT BEFORE APRIL 1, 2023, ON THE BASIS OF THE EXEMPTION SET
25 FORTH IN SUBSECTION (3)(d)(I) OF THIS SECTION.

26 (III) AS USED IN THIS SUBSECTION (3)(d), "QUALIFIED BUSINESS"
27 MEANS A RETAILER THAT IN THE PREVIOUS CALENDAR YEAR MADE RETAIL

1 SALES OF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES IN
2 THE STATE TOTALING FIVE HUNDRED THOUSAND DOLLARS OR LESS. IF THE
3 RETAILER HAD NO RETAIL SALES IN THE STATE IN THE PREVIOUS CALENDAR
4 YEAR, THEN THE RETAILER IS DEEMED TO BE A "QUALIFIED BUSINESS" FOR
5 THE CURRENT CALENDAR YEAR, UNTIL THE FIRST DAY OF THE MONTH
6 AFTER THE NINETIETH DAY AFTER THE RETAILER HAS MADE RETAIL SALES
7 OF TANGIBLE PERSONAL PROPERTY, COMMODITIES, OR SERVICES IN THE
8 STATE THAT TOTAL MORE THAN FIVE HUNDRED THOUSAND DOLLARS.

9 (6) (a) ~~Except to the extent otherwise authorized or required by~~
10 ~~the department of revenue pursuant to subsection (6)(d) of this section~~
11 ~~with respect to the timing of the remittance of fees to the department~~ AS
12 OTHERWISE PROVIDED IN THIS SUBSECTION (6), the collection,
13 administration, and enforcement of the retail delivery fee imposed by
14 subsection (3) of this section and the enterprise retail delivery fees shall
15 be performed by the executive director of the department of revenue in
16 the same manner as the collection, administration, and enforcement of
17 state sales tax pursuant to article 26 of title 39.

18 (b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6)(b)(II)
19 OF THIS SECTION, every retailer who makes a retail delivery shall add the
20 retail delivery fee imposed by subsection (3) of this section and the
21 enterprise retail delivery fees to the price or charge for the retail delivery
22 showing the total of the fees as one item called "retail delivery fees" that
23 is separate and distinct from the price and any other taxes or fees imposed
24 on the retail delivery. ~~When~~ IF added, the fees constitute a part of the
25 retail delivery price or charge, are a debt from the purchaser to the retailer
26 until paid, and are recoverable at law in the same manner as other debts.

27 (II) A RETAILER MAY ELECT TO PAY THE RETAIL DELIVERY FEE

1 IMPOSED BY SUBSECTION (3) OF THIS SECTION AND THE ENTERPRISE RETAIL
2 DELIVERY FEES FOR A RETAIL DELIVERY ON BEHALF OF A PURCHASER. IF
3 A RETAILER ELECTS TO PAY THESE FEES, THEN:

4 (A) THE RETAILER SHALL NOT ADD THE FEES TO THE PRICE OR
5 CHARGE FOR THE RETAIL DELIVERY SHOWING THE TOTAL OF THE FEES AS
6 ONE ITEM CALLED "RETAIL DELIVERY FEES" THAT IS SEPARATE AND
7 DISTINCT FROM THE PRICE AND ANY OTHER TAXES OR FEES IMPOSED ON
8 THE RETAIL DELIVERY;

9 (B) THE PURCHASER IS NEITHER LIABLE NOR RESPONSIBLE FOR THE
10 PAYMENT OF THE FEES; AND

11 (C) THE PURCHASER IS NOT ENTITLED TO A REFUND FOR FEES THAT
12 ARE PAID FOR A RETAIL DELIVERY THAT IS EXEMPT UNDER SUBSECTION
13 (3)(c) OR (3)(d) OF THIS SECTION. A RETAILER MAY CLAIM A REFUND
14 UNDER SECTION 39-26-703 FOR THE EXEMPT FEES PAID; EXCEPT THAT
15 SECTION 39-26-703 (2.5)(b)(I)(B) SHALL NOT APPLY IN THIS
16 CIRCUMSTANCE.

17 (c) Every retailer who makes a retail delivery is liable and
18 responsible for the payment of an amount equivalent to the total amount
19 of the retail delivery fee imposed by subsection (3) of this section and the
20 enterprise retail delivery fees for each retail delivery made irrespective of
21 the requirements of subsection (6)(b) of this section. The burden of
22 proving that a retailer is exempt from collecting OR ELECTING TO PAY the
23 fees on any retail delivery and paying the fees to the executive director of
24 the department of revenue is on the retailer under such reasonable
25 requirements of proof as the executive director may prescribe. The retailer
26 is entitled, as collecting agent for the state, to apply and credit the amount
27 of the retailer's collections, IF ANY, against the amount to be paid pursuant

1 to this subsection (6)(c).

2 (d) (I) A retailer who collects the retail delivery fee imposed by
3 subsection (3) of this section and the enterprise retail delivery fees shall
4 remit the fees to the department of revenue at the same time and in the
5 same manner as the retailer remits sales tax revenue collected to the
6 department as required by article 26 of title 39 unless the department
7 requires or authorizes the fees to be remitted at another time or in another
8 manner.

9 (II) A RETAILER WHO ELECTS TO PAY THE RETAIL DELIVERY FEE
10 IMPOSED BY SUBSECTION (3) OF THIS SECTION AND THE ENTERPRISE RETAIL
11 DELIVERY FEES ON BEHALF OF A PURCHASER IN ACCORDANCE WITH
12 SUBSECTION (6)(b)(II) OF THIS SECTION SHALL REMIT THE FEES TO THE
13 DEPARTMENT OF REVENUE AS IF THE FEES HAD BEEN COLLECTED FROM THE
14 PURCHASER ON THE DATE OF THE RETAIL DELIVERY, AS SPECIFIED IN
15 SUBSECTION (6)(d)(I) OF THIS SECTION.

16 (f) THE DEPARTMENT OF REVENUE SHALL WAIVE ANY PROCESSING
17 COSTS, AS DEFINED IN SECTION 39-21-119.5 (7)(d)(II), FOR ELECTRONIC
18 PAYMENT OF THE RETAIL DELIVERY FEE IMPOSED BY SUBSECTION (3) OF
19 THIS SECTION AND THE ENTERPRISE RETAIL DELIVERY FEES IF:

20 (I) THE PROCESSING COSTS WOULD EXCEED THE AMOUNT OF THE
21 RETAIL DELIVERY FEES THE RETAILER IS REMITTING; AND

22 (II) THE ELECTRONIC PAYMENT IS BY AUTOMATED CLEARING
23 HOUSE (ACH) DEBIT.

24 **SECTION 7.** In Colorado Revised Statutes, 43-4-805, **amend**
25 (5)(g.7)(I) and (5)(g.7)(IV)(B); and **add** (5)(g.7)(IV)(C) as follows:

26 **43-4-805. Statewide bridge enterprise - creation - board -**
27 **funds - powers and duties - legislative declaration - definitions.** (5) In

1 addition to any other powers and duties specified in this section, the
2 bridge enterprise board has the following powers and duties:

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

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

18 (B) "Retail delivery" ~~means a retail sale of tangible personal~~
19 ~~property by a retailer for delivery by a motor vehicle owned or operated~~
20 ~~by the retailer or any other person to the purchaser at a location in the~~
21 ~~state, which sale includes at least one item of tangible personal property~~
22 ~~that is subject to taxation under article 26 of title 39. Each such retail sale~~
23 ~~is a single retail delivery regardless of the number of shipments necessary~~
24 ~~to deliver the items of tangible personal property purchased~~ HAS THE
25 SAME MEANING AS SET FORTH IN SECTION 43-4-218 (2)(e).

26 (C) "RETAILER" HAS THE SAME MEANING AS SET FORTH IN SECTION
27 39-26-102 (8).

1 **SECTION 8.** In Colorado Revised Statutes, 43-4-1201, **amend**
2 (2)(c) introductory portion as follows:

3 **43-4-1201. Legislative declaration.** (2) The general assembly
4 further finds and declares that:

5 (c) The enterprise provides impact remediation services when, in
6 exchange for the payment of clean transit retail delivery fees by OR ON
7 BEHALF OF purchasers of tangible personal property for retail delivery, it
8 acts to mitigate the impacts of residential and commercial deliveries on
9 the state's transportation infrastructure, air quality, and emissions by:

10 **SECTION 9.** In Colorado Revised Statutes, 43-4-1202, **amend**
11 (15); and **repeal** (17) as follows:

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

14 (15) ~~"Retail delivery" means a retail sale of tangible personal~~
15 ~~property by a retailer for delivery by a motor vehicle owned or operated~~
16 ~~by the retailer or any other person to the purchaser at a location in the~~
17 ~~state, which sale includes at least one item of tangible personal property~~
18 ~~that is subject to taxation under article 26 of title 39. Each such retail sale~~
19 ~~is a single retail delivery regardless of the number of shipments necessary~~
20 ~~to deliver the items of tangible personal property purchased~~ HAS THE
21 SAME MEANING AS SET FORTH IN SECTION 43-4-218 (2)(e).

22 (17) ~~"Retail sale" has the same meaning as set forth in section~~
23 ~~39-26-102 (9).~~

24 **SECTION 10.** In Colorado Revised Statutes, 43-4-1203, **amend**
25 (7)(a) as follows:

26 **43-4-1203. Clean transit enterprise - creation - board - powers**
27 **and duties - rules - fees - fund.** (7) (a) In furtherance of its business

1 purpose, beginning in state fiscal year 2022-23, the enterprise shall
2 impose, and the department of revenue shall collect on behalf of the
3 enterprise, a clean transit retail delivery fee on each retail delivery. Each
4 retailer who makes a retail delivery shall ~~add to the price of the retail~~
5 ~~delivery~~, EITHER collect ~~from the purchaser~~, and pay to the department of
6 ~~revenue at the time~~ and REMIT OR ELECT TO PAY THE CLEAN TRANSIT
7 RETAIL DELIVERY FEE in the manner prescribed by the department in
8 accordance with section 43-4-218 (6). ~~the clean transit retail delivery fee.~~
9 For the purpose of minimizing compliance costs for retailers and
10 administrative costs for the state, the department of revenue shall collect
11 and administer the clean transit retail delivery fee on behalf of the
12 enterprise in the same manner in which it collects and administers the
13 retail delivery fee imposed by section 43-4-218 (3).

14 **SECTION 11.** In Colorado Revised Statutes, 43-4-1301, **amend**
15 (2)(a) as follows:

16 **43-4-1301. Legislative declaration.** (2) The general assembly
17 further finds and declares that:

18 (a) The enterprise provides impact remediation services when, in
19 exchange for the payment of air pollution mitigation per ride fees by
20 transportation network companies and air pollution mitigation retail
21 delivery fees by OR ON BEHALF OF purchasers of tangible personal
22 property for retail delivery, it acts as authorized by this section to mitigate
23 the impacts of prearranged rides arranged through transportation network
24 companies and residential and commercial deliveries on the state's
25 transportation infrastructure, air quality, and emissions;

26 **SECTION 12.** In Colorado Revised Statutes, 43-4-1302, **amend**
27 (19); and **repeal** (21) as follows:

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

3 (19) ~~"Retail delivery" means a retail sale of tangible personal~~
4 ~~property by a retailer for delivery by a motor vehicle owned or operated~~
5 ~~by the retailer or any other person to the purchaser at a location in the~~
6 ~~state, which sale includes at least one item of tangible personal property~~
7 ~~that is subject to taxation under article 26 of title 39. Each such retail sale~~
8 ~~is a single retail delivery regardless of the number of shipments necessary~~
9 ~~to deliver the items of tangible personal property purchased~~ HAS THE
10 SAME MEANING AS SET FORTH IN SECTION 43-4-218 (2)(e).

11 (21) ~~"Retail sale" has the same meaning as set forth in section~~
12 ~~39-26-102 (9).~~

13 **SECTION 13.** In Colorado Revised Statutes, 43-4-1303, **amend**
14 **(8)(a)** as follows:

15 **43-4-1303. Nonattainment area air pollution mitigation**
16 **enterprise - creation - board - powers and duties - rules - fees - fund.**

17 (8) (a) In furtherance of its business purpose, beginning in state fiscal
18 year 2022-23, the enterprise shall impose, and the department of revenue
19 shall collect on behalf of the enterprise, an air pollution mitigation retail
20 delivery fee on each retail delivery. Each retailer who makes a retail
21 delivery shall ~~add to the price of the retail delivery,~~ EITHER collect from
22 ~~the purchaser, and pay to the department of revenue at the time~~ and REMIT
23 OR ELECT TO PAY THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE
24 in the manner prescribed by the department in accordance with section
25 43-4-218 (6). ~~the air pollution mitigation retail delivery fee.~~ For the
26 purpose of minimizing compliance costs for retailers and administrative
27 costs for the state, the department of revenue shall collect and administer

1 the air pollution mitigation retail delivery fee on behalf of the enterprise
2 in the same manner in which it collects and administers the retail delivery
3 fee imposed by section 43-4-218 (3).

4 **SECTION 14. Effective date.** This act takes effect on April 1,
5 2023; except that section 43-4-218 (3)(d), Colorado Revised Statutes,
6 enacted in section 6 of this act takes effect upon passage.

7 **SECTION 15. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, or safety.