
DEPARTMENT OF REVENUE

Community Access Enterprise

REGULATION 1 - COMMUNITY ACCESS ENTERPRISE RETAIL DELIVERY FEE

1.1 AUTHORITY AND PURPOSE

1.1.1 Authority

The Community Access Enterprise Board (the "Board") shall administer the Community Access Enterprise Fund (the "Fund") created under § 24-38.5-303(5)(a), C.R.S. The Fund consists of:

- 1.1.1.1 Community access retail delivery fee revenue;
- 1.1.1.2 Monetary gifts, grants, donations, or other payments received by the Community Access Enterprise (the "Enterprise");
 - (a) Gifts, grants, or donations from private or public sources can be accepted to benefit the establishment and operation of the Board so long as the total amount of all grants from Colorado state and local governments received in any state fiscal year is less than ten percent of the Enterprise's total annual revenue for the state fiscal year.
- 1.1.1.3 Any federal money that may be credited to the Fund; and
- 1.1.1.4 Any other money that the general assembly may appropriate or transfer to the Fund.

1.1.2 Purpose

1.1.2.1 Pursuant to § 24-38.5-303(8), C.R.S., the enterprise is authorized to implement grant, loan, or rebate programs for the following purposes:

(a) To fund the construction of electric motor vehicle charging infrastructure including but not limited to:

- (I) Public, workplace, transportation network company, and multifamily electric vehicle chargers;
- (II) Electric vehicle chargers for communities, including but not limited to disproportionately impacted communities;

(III) Electric vehicle chargers for medium-duty electric motor vehicles and heavy-duty electric motor vehicles, including electrified refrigerated trailers;

(IV) Infrastructure needs to support the powering of hydrogen fuel cell motor vehicles; and

(V) Networks and plazas of direct current charging infrastructure that offer fast charging for electric motor vehicles;

(b) To provide inexpensive and accessible electric alternatives to motor vehicles such as electrical assisted bicycles and electric scooters;

(c) To support the adoption of electric motor vehicles in communities, including but not limited to disproportionately impacted communities, including by incentivizing replacement of high-emitting motor vehicles with electric motor vehicles; and

(d) To provide incentives for transportation network companies and companies that rent motor vehicles to transportation network company drivers for use in providing transportation network company services to increase access to overnight charging capability for drivers.

1.1.3 Definitions

1.1.3.1 'Board' means the governing board of the Enterprise as defined in § 24-38.5-303(2), C.R.S.

1.1.3.2 'Community access retail delivery fee' or 'retail delivery fee' means the fee added to the price of retail deliveries by each retailer who makes a retail delivery. A retailer may elect to pay the retail delivery fee on behalf of a purchaser.

1.1.3.3 'Department' means the department of revenue.

1.1.3.4 'Enterprise' means the Community Access Enterprise created in § 24-38.5-303, C.R.S.

1.1.3.5 'Fee payer' means any person or entity or group of persons or entities that pays the retail delivery fee on retail deliveries of tangible personal property.

1.1.3.6 'Fund' means the Community Access Enterprise Fund created within the state treasury pursuant to § 24-38.5-303(5)(a), C.R.S.

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- 1.1.3.7 “Qualified business” means a retailer that in the previous calendar year made retail sales of tangible personal property, commodities, or services in the state totaling five hundred thousand dollars or less.
- 1.1.3.8 ‘Retail delivery’ means a retail sale of tangible personal property by a retailer for delivery by a motor vehicle owned or operated by the retailer or any other person to the purchaser at a location in this state, which sale includes at least one item of tangible personal property that is subject to taxation. Each such retail sale is a single retail delivery regardless of the number of shipments necessary to deliver the items of tangible personal property purchased.
- 1.1.3.9 ‘Retail sale’ includes all sales made within the state except wholesale sales.
- 1.1.3.10 ‘Retailer’ means a person doing business in this state known to the trade and public as such, and selling to the user or consumer, and not for resale. The term includes a marketplace facilitator, a marketplace seller, and a multichannel seller doing business in this state. If the retailer had no retail sales in the state in the previous calendar year, then the retailer is deemed to be a “qualified business” for the current calendar year, until the first day of the month after the ninetieth day after the retailer has made sales of tangible personal property, commodities or services in the state that total more than five hundred thousand dollars.
- 1.1.3.11 ‘Tangible personal property’ means all goods, wares, merchandise, products and commodities, and all tangible or corporeal things and substances that are dealt in and capable of being possessed and exchanged. The term does not include newspapers or preprinted newspaper supplements that become attached to or inserted in and distributed with such newspaper as excluded in § 39-26-102(15)(a)(I), C.R.S.

1.1.4 Severability

Each provision of this regulation shall be deemed severable, and in the event that any provision of this regulation is held to be invalid, the remainder of this regulation shall continue in full force and effect.

1.2 RETAIL DELIVERY FEE

The retail delivery fee, as established by the Board, will be collected for retail deliveries of tangible personal property purchases which in the aggregate, reflect the cost of the services provided. The Board shall impose, and the department of revenue shall collect on behalf of the Enterprise, the retail delivery fee on each retail delivery.

1.2.1 The retail delivery fee shall be set at six and nine-tenths cent as authorized by § 24-38.5-303(7)(b), C.R.S.

1.2.1.1 The retail delivery fee shall be adjusted for inflation on an annual basis starting in fiscal year 2023-24.

1.2.2 The retail delivery fee shall be collected by the department on behalf of the Enterprise beginning on July 1, 2022.

1.2.3 As of July 1, 2023, retail deliveries by qualified businesses are exempt from the retail delivery fee.

1.2. 4 Each retailer who makes a retail delivery shall add to the price of the retail delivery, collect from the purchaser or may elect to pay the retail delivery fee on behalf of a purchaser, and submit payment to the department at the time and in the manner prescribed by the department in accordance with § 43-4-218(6), C.R.S.

1.3 OTHER REVENUES, PAYMENTS, GRANTS, GIFTS AND DONATIONS

1.3.1 Nothing in this rule limits or precludes the Fund from receiving other revenues, payments, grants, gifts and donations as allowed by § 24-38.5-303, C.R.S. or other statute.

2.1 STATEMENT OF BASIS AND PURPOSE

2.1.1 September 14, 2023

Basis and Purpose

Pursuant to § 24-38.5-303, C.R.S., the Enterprise functions as a government-owned business that provides statutorily specified services to fee payers. It collects fees for a primary purpose of equitably supporting the widespread adoption of electric motor vehicles, including motor vehicles that originally were powered exclusively by internal combustion engines but have been converted into electric motor vehicles. Expenditures of Enterprise revenue may provide benefits to the public or third parties.

The Board, through development and approval of the Ten-Year Plan, will outline programs and recommendations that meet the objectives of the enterprise business purpose.

To minimize the administrative costs associated with the fee rule to further the purposes and mission of the Enterprise, the department of revenue shall collect and administer the community access retail delivery fee on behalf of the Enterprise.

Statutory Authority

Draft Retail Delivery Fee Rule

September 14, 2023

To fund its activities, the Board must establish fees, as authorized in § 24-38.5-303(7), C.R.S. This rule sets up the retail delivery fee that will be paid into the Fund beginning in state fiscal year 2022-23.

In 2023, the General Assembly passed Senate Bill 23-143, which created the retail delivery fee exemption for qualified businesses and permitted retailers to pay the retail delivery fee on behalf of a purchaser rather than collect payment from each retailer on each retail sale.

Other revenues, payments, grants, gifts and donations

Payment into the Fund may also occur through the receipt of other revenues, payments, gifts, grants, and donations.

Future fee revisions

Starting in fiscal year 2023-24, the Board, with assistance from the department, will revisit the retail delivery fee annually to adjust the fee for inflation.

ADOPTED AS OF September 14, 2023

Reverend Eugene Downing
Chairman