

109TH CONGRESS
1ST SESSION

H. R. 206

To amend the Internal Revenue Code of 1986 to provide a business credit relating to the use of clean-fuel vehicles by businesses within areas designated as nonattainment areas under the Clean Air Act.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Mr. SERRANO introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide a business credit relating to the use of clean-fuel vehicles by businesses within areas designated as nonattainment areas under the Clean Air Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CLEAN-FUEL CREDIT WITH RESPECT TO BUSI-**
4 **NESSES LOCATED IN NONATTAINMENT**
5 **AREAS.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-
7 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business-related credits) is amended by
2 adding at the end the following new section:

3 **“SEC. 45J. CLEAN-FUEL CREDIT WITH RESPECT TO BUSI-**
4 **NESSES LOCATED IN NONATTAINMENT**
5 **AREAS.**

6 “(a) IN GENERAL.—For purposes of section 38, in
7 the case of an eligible business the clean-fuel credit deter-
8 mined under this section for the taxable year is the sum
9 of—

10 “(1) the clean-fuel property credit, plus

11 “(2) the clean-burning fuel use credit.

12 “(b) CLEAN-FUEL PROPERTY CREDIT.—

13 “(1) IN GENERAL.—The clean-fuel property
14 credit is the sum of—

15 “(A) qualified vehicle property costs, plus

16 “(B) qualified refueling property costs.

17 “(2) QUALIFIED VEHICLE PROPERTY COSTS.—

18 “(A) IN GENERAL.—For purposes of para-
19 graph (1), the term ‘qualified vehicle property
20 costs’ means the amount paid or incurred by
21 the eligible business for qualified clean-fuel ve-
22 hicle property which is placed in service during
23 the taxable year by the eligible business and
24 substantially all of the use of which is in a non-
25 attainment area.

1 “(B) LIMITATION.—The amount which
2 may be taken into account under subparagraph
3 (A) with respect to any motor vehicle shall not
4 exceed—

5 “(i) \$2,000 in the case of a motor ve-
6 hicle not described in clause (ii) or (iii),

7 “(ii) \$5,000 in the case of any truck
8 or van with a gross vehicle weight rating
9 greater than 10,000 pounds but not great-
10 er than 26,000 pounds, or

11 “(iii) \$50,000 in the case of—

12 “(I) a truck or van with a gross
13 vehicle weight rating greater than
14 26,000 pounds, or

15 “(II) any bus which has a seating
16 capacity of at least 20 adults (not in-
17 cluding the driver).

18 “(C) QUALIFIED CLEAN-FUEL VEHICLE
19 PROPERTY.—The term ‘qualified clean-fuel ve-
20 hicle property’ shall have the meaning given to
21 such term by section 179A(c) (without regard
22 to paragraph (3) thereof), except that such
23 term does not include property that is a motor
24 vehicle propelled by a fuel that is not a clean-
25 burning fuel.

1 “(3) QUALIFIED REFUELING PROPERTY
2 COSTS.—

3 “(A) IN GENERAL.—For purposes of para-
4 graph (1), the term ‘qualified refueling property
5 costs’ means amounts paid or incurred by the
6 eligible business for qualified clean-fuel vehicle
7 refueling property (as defined by section
8 179A(d)) which is placed in service in a non-
9 attainment area during the taxable year by the
10 eligible business.

11 “(B) LIMITATION.—

12 “(i) IN GENERAL.—The aggregate
13 cost which may be taken into account
14 under subparagraph (A) with respect to
15 qualified clean-fuel vehicle refueling prop-
16 erty placed in service by the eligible busi-
17 ness during the taxable year at a location
18 shall not exceed the lesser of—

19 “(I) \$100,000, or

20 “(II) the cost of such property
21 reduced by the amount described in
22 clause (ii).

23 “(ii) REDUCTION FOR AMOUNTS PRE-
24 VIOUSLY TAKEN INTO ACCOUNT.—For pur-

1 poses of clause (i)(II), the amount de-
2 scribed in this clause is the sum of—

3 “(I) the aggregate amount taken
4 into account under paragraph (1)(B)
5 for all preceding taxable years, and

6 “(II) the aggregate amount taken
7 into account under section
8 179A(a)(1)(B) by the taxpayer (or
9 any related person or predecessor)
10 with respect to property placed in
11 service at such location for all pre-
12 ceding taxable years.

13 “(iii) SPECIAL RULES.—For purposes
14 of this subparagraph, the provisions of
15 subparagraphs (B) and (C) of section
16 179A(b)(2) shall apply.

17 “(c) CLEAN-BURNING FUEL USE CREDIT.—

18 “(1) IN GENERAL.—For purposes of subsection
19 (a), the clean-burning fuel use credit is the amount
20 equal to 50 cents for each gasoline gallon equivalent
21 of clean-burning fuel used by an eligible business
22 during the taxable year to propel qualified clean-fuel
23 vehicle property.

24 “(2) CLEAN-BURNING FUEL.—For purposes of
25 paragraph (1), the term ‘clean-burning fuel’ has the

1 meaning given to such term by section 179A, except
2 that such term includes compressed natural gas and
3 biodiesel (as defined by section 40A(d)(1)).

4 “(3) GASOLINE GALLON EQUIVALENT.—For
5 purposes of paragraph (1), the term ‘gasoline gallon
6 equivalent’ means, with respect to any clean burning
7 fuel, the amount (determined by the Secretary) of
8 such fuel having a Btu content of 114,000.

9 “(d) OTHER DEFINITIONS.—For purposes of this
10 section—

11 “(1) ELIGIBLE BUSINESS.—The term ‘eligible
12 business’ means—

13 “(A) a qualified business entity or a quali-
14 fied proprietorship (as such terms are defined
15 by section 1397C, determined by substituting
16 ‘nonattainment area’ for ‘empowerment zone’
17 and ‘enterprise zone’ each place it appears),
18 and

19 “(B) a trade or business located outside of
20 a nonattainment area, but only with respect to
21 qualified clean-fuel vehicle property used sub-
22 stantially within a nonattainment area.

23 “(2) NONATTAINMENT AREA.—The term ‘non-
24 attainment area’ shall have the meaning given to

1 such term by section 171 of the Clean Air Act (42
2 U.S.C. 7501).

3 “(e) DENIAL OF DOUBLE BENEFIT.—No credit shall
4 be allowed under subsection (a) for any expense for which
5 a deduction or credit is allowed under any other provision
6 of this chapter.”.

7 (b) CREDIT MADE PART OF GENERAL BUSINESS
8 CREDIT.—Subsection (b) of section 38 of such Code (re-
9 lating to current year business credit) is amended by strik-
10 ing “plus” at the end of paragraph (18), by striking the
11 period at the end of paragraph (19) and inserting “, plus”,
12 and by adding at the end thereof the following new para-
13 graph:

14 “(20) the clean-fuel credit determined under
15 section 45J.”.

16 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of
17 such Code (relating to certain expenses for which credits
18 are allowable) is amended by adding at the end thereof
19 the following new subsection:

20 “(e) ZONE CLEAN FUELS EXPENSES.—No deduction
21 shall be allowed for that portion of expenses for clean-
22 burning fuel otherwise allowable as a deduction for the
23 taxable year which is equal to the amount of the credit
24 determined for such taxable year under section 45J.”.

1 (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-
2 IMUM TAX.—

3 (1) IN GENERAL.—Subsection (c) of section 38
4 of such Code (relating to limitation based on amount
5 of tax) is amended by redesignating paragraph (5)
6 as paragraph (6) and by inserting after paragraph
7 (4) the following new paragraph:

8 “(5) SPECIAL RULES FOR CLEAN FUELS CRED-
9 IT.—

10 “(A) IN GENERAL.—In the case of the
11 clean fuels credit—

12 “(i) this section and section 39 shall
13 be applied separately with respect to the
14 credit, and

15 “(ii) in applying paragraph (1) to the
16 credit—

17 “(I) subparagraph (A) thereof
18 shall not apply, and

19 “(II) the limitation under para-
20 graph (1) (as modified by subclause
21 (I)) shall be reduced by the credit al-
22 lowed under subsection (a) for the
23 taxable year (other than the clean
24 fuels credit).

1 “(B) CLEAN FUELS CREDIT.—For pur-
2 poses of this subsection, the term ‘clean fuels
3 credit’ means the credit allowable under sub-
4 section (a) by reason of section 45J.”.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Subclause (II) of section
7 38(c)(2)(A)(ii) of such Code is amended by
8 striking “or the New York Liberty Zone busi-
9 ness employee credit” and inserting “, the New
10 York Liberty Zone business employee credit, or
11 the clean fuels credit”.

12 (B) Subclause (II) of section
13 38(c)(3)(A)(ii) of such Code is amended by in-
14 serting “or the clean fuels credit” after “em-
15 ployee credit”.

16 (C) Subclause (II) of section
17 38(c)(4)(A)(ii) of such Code is amended by in-
18 serting “or the clean fuels credit” after “speci-
19 fied credits”.

20 (e) DEDUCTION FOR CERTAIN UNUSED BUSINESS
21 CREDITS.—Subsection (c) of section 196 of such Code is
22 amended by striking “and” at the end of paragraph (11),
23 by striking the period at the end of paragraph (12) and
24 inserting “, and”, and by adding after paragraph (12) the
25 following new paragraph:

1 “(13) the clean fuels credit determined under
2 section 45J.”.

3 (f) CONFORMING AMENDMENT.—The table of sec-
4 tions for subpart D of part IV of subchapter A of chapter
5 1 of such Code is amended by inserting after the item
6 relating to section 45I the following new item:

 “Sec. 45J. Clean-fuel credit with respect to businesses located in nonattainment
 areas.”.

7 (g) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to property placed in service after
9 December 31, 2004.

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