109TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to allow taxpayers to expense the cost of retrofitting diesel engines used in construction in order to reduce air pollutants.

IN THE HOUSE OF REPRESENTATIVES

Mr. BRADY of Texas introduced the following bill; which was referred to the Committee on ________________

A BILL

To amend the Internal Revenue Code of 1986 to allow taxpayers to expense the cost of retrofitting diesel engines used in construction in order to reduce air pollutants.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

This Act may be cited as the “[TO BE PROVIDED] Act of 2005”.

]
SEC. 2. DEDUCTION FOR RETROFITTING DIESEL-POWERED CONSTRUCTION EQUIPMENT.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 179B the following new section:

"SEC. 179C. DEDUCTION FOR RETROFITTING DIESEL-POWERED CONSTRUCTION EQUIPMENT.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction an amount equal to the cost of any qualified diesel-powered construction property. The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

"(b) LIMITATION.—The cost which may be taken into account under subsection (a) with respect to any piece of construction equipment shall not exceed $50,000.

"(c) QUALIFIED DIESEL-POWERED CONSTRUCTION PROPERTY DEFINED.—For purposes of this section, the term ‘qualified diesel-powered construction property’ means a qualified retrofit part or component, or qualified diesel engine, which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, and which is described in either of the following paragraphs:

"(1) QUALIFIED RETROFIT PART OR COMPONENT.—Any property—
“(A) installed on a piece of diesel-powered construction equipment,

“(B) included on the Verified Technology List of the Voluntary Diesel Retrofit Program of the Environmental Protection Agency (or any other list which the Administrator of the Environmental Protection Agency identifies for purposes of this subparagraph as serving the same or similar purposes as such Verified Technology List), and

“(C) certified by the installer (or by the taxpayer, if self-installed) as having been installed in conformance with the specifications included on such list for achieving a reduction of 20 percent or greater in 1 or more of the pollutants on such list.

“(2) QUALIFIED DIESEL ENGINE.—Any diesel engine—

“(A) installed as a replacement for an existing engine on a piece of diesel-powered construction equipment and

“(B) certified by the installer (or by the taxpayer, if self-installed) as meeting the standards of the Environmental Protection Agency
for nonroad diesel engines in effect on the date
on which the engine is placed in service.

“(d) Other Definitions and Special Rules.—
For purposes of this section—

“(1) Diesel-powered Construction Equipment.—The term ‘diesel-powered construction
equipment’ means any equipment internally or externally powered by diesel fuel (as defined in section
4083(a)(3)) and used for preparation of sites, construc-
tion, addition, alteration, repair, or main-
tenance of buildings or engineering projects.

“(2) Cost Includes Cost of Installation.—The cost of any qualified diesel-powered con-
struction property shall include the cost of the origi-
nal installation of such property.

“(3) RecapTURE.—The Secretary shall, by reg-
ulations, provide for recapturing the benefit of any
deduction allowable under subsection (a) with re-
spect to any property which ceases to be property elig-
ible for such deduction.

“(4) Property Used Outside United
States, Etc., Not Qualified.—No deduction shall
be allowed under subsection (a) with respect to any
property referred to in section 50(b) or with respect
to the portion of the cost of any property taken into account under section 179.

“(5) Basis Reduction.—

“(A) In General.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

“(B) Ordinary Income Recapture.—

For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.”

(b) Conforming Amendments.—

(1) Section 263(a)(1) of such Code is amended by striking “or” at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting “, or”, and by inserting after subparagraph (I) the following new subparagraph:

“(J) expenditures for which a deduction is allowed under section 179C.”.

(2) Section 312(k)(3)(B) of such Code is amended by striking “or 179B” each place it ap-
pears in the heading and text and inserting “179B, or 179C”.

(3) Section 1016(a) of such Code is amended by striking “and” at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting “, and”, and by adding at the end the following new paragraph:

“(32) to the extent provided in section 179C(d).”.

(4) Section 1245(a) of such Code is amended by inserting “179C,” after “179B,” both places it appears in paragraphs (2)(C) and (3)(C).

(c) Clerical Amendment.—The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by inserting after section 179A the following new item:

“Sec. 179C. Deduction for retrofitting diesel-powered construction equipment.”.

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date.