

## CONGRESS CREATES THE SAFETY ACT TO ENCOURAGE THE USE OF ANTI-TERRORISM TECHNOLOGIES

In the aftermath of the 9/11 attacks, the private sector was extremely reluctant to deploy security technologies and services in civilian settings due to the enormous liability risks involved. Should the company's technology be impacted by an act of terrorism, the company could be held responsible for any damages. In response, Congress enacted the Support Anti-Terrorism by Fostering Effective Technologies (SAFETY) Act in 2002.

The SAFETY Act created liability limitations for claims resulting from an act of terrorism where Qualified Anti-Terrorism Technologies (QATTs) have been deployed. The Act applies to a broad range of technologies, including products, services, and software, or combinations thereof. The Act applies to claims filed in U.S. courts against "Sellers" -- any person, firm, or other entity that provides a QATT to customers and to whom a Designation has been issued. Similar claims may not be brought against the buyers, buyers' contractors, or downstream users of the QATT.

## THERE ARE TWO LEVELS OF LIABILITY PROTECTIONS

- **Designation:** The Seller's liability for products or services deemed "Designated Technologies" is limited to the amount of liability insurance that the U.S. Department of Homeland Security (DHS) determines the Seller must maintain. A Developmental Testing & Evaluation Designation may also be obtained for promising QATTs that are undergoing testing and evaluation. Designation is a prerequisite for Certification.
- **Certification:** To receive Certification, a QATT must also be shown to perform as intended, conform to the Seller's specifications, and be safe for use as intended. Certification allows a Seller of anti-terrorism technology to assert the Government Contractor Defense for claims arising from acts of terrorism.

- DHS has approved the following marks for use:



## SAFETY ACT CRITERIA FOR DESIGNATION

- Prior United States Government use or demonstrated substantial utility and effectiveness.
- Availability of the technology for immediate deployment in public and private settings.
- Existence of extraordinarily large or unquantifiable potential third-party liability risk exposure to the Seller or other provider of the technology.
- Substantial likelihood that the technology will not be deployed unless SAFETY Act risk management protections are extended.
- Magnitude of risk exposure to the public if the technology is not deployed.
- Evaluation of scientific studies that can be feasibly conducted to assess the capability of the technology to substantially reduce risks of harm.
- Effectiveness of the technology in facilitating the defense against acts of terrorism.

## DHS HAS APPROVED MORE THAN 1,000 SAFETY ACT APPLICATIONS, INCLUDING:

- Threat and vulnerability assessment services
- Detection systems
- Blast mitigation materials
- Screening services
- Sensors and sensor integration
- First responder technologies
- Cyber security technologies