

DHS Science and Technology Directorate Research and Development Partnerships – SAFETY Act for Liability Protection

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. Parties covered under the SAFETY Act are referred to as "Sellers" and can include any person, firm, or other entity that provides a QATT to customer(s) and to whom a Designation has been issued. The Act applies to claims against the Seller of a QATT that are filed in United States courts. 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 that are 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.

Certification – In addition to the benefits provided under Designation, Certification allows a Seller of anti-terrorism technology to assert the Government Contractor Defense for claims arising from acts of terrorism. QATTs will be placed on an Approved SAFETY Act Product List for Homeland Security.

The DHS approved the following marks for use:

Certified

Designated

DT&E Designated



SAFETY Act Criteria for Designation

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

SAFETY Act Criteria for Certification

Designation is a prerequisite for Certification. To receive Certification, a QATT must also be shown to:

1. Perform as intended.
2. Conform to the Seller's specifications.
3. Be safe for use as intended.

It is not required that applicants satisfy all of the relevant criteria to receive SAFETY Act Designation.

The DHS has approved over 800 applications for SAFETY Act protections including:

1. Threat and vulnerability assessment services
2. Detection systems
3. Blast mitigation materials
4. Screening services
5. Sensors and sensor integration
6. First responder technologies
7. Cyber security technologies
8. Security plans/services
9. Crisis management systems
10. Venue security

In FY15, approved technologies totaled more than \$7.5 billion in projected annual technology revenue and supported more than 151,000 private sector jobs in small and large businesses.



Homeland
Security

Science and Technology

To learn more about the SAFETY Act and how to apply for SAFETY Act protections, see our Web site www.safetyact.gov

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