

Homeland Security Practice

SAFETY Act Capabilities



Dickstein Shapiro is one of the top law firms on the SAFETY Act. Since the enactment of the SAFETY Act, our attorneys have helped prepare a significant percentage of the applications that have been filed with the Department of Homeland Security.

Dickstein Shapiro's Homeland Security Practice takes a comprehensive approach to the Support Anti-Terrorism By Fostering Effective Technologies Act of 2002 ("the SAFETY Act"). This piece of legislation provides tort liability protections for products and services that can be used to detect, defend against, or respond to acts of terrorism. The SAFETY Act was implemented to respond to concerns by companies that they may be exposed to nearly limitless legal liability in the event of an act of terrorism.

Under the SAFETY Act, the owner or seller of "anti-terror technology" — which can be either a product or a service—may apply for significant liability protections from the Department of Homeland Security (DHS). If a product or service receives SAFETY Act "Certification," then it is presumably entitled to immunity from tort claims arising from an act of terrorism. Under SAFETY Act "Designation," the tort liability is limited to the amount of insurance required to be maintained, as determined by the DHS. Under both circumstances, cases may be brought only in federal court.

Why Should I Worry About Liability from Terrorist Attacks?

Since 2001, many companies and property owners have been found liable for damages suffered in the course of a terrorist attack. Airframe manufacturers, security companies, and even property owners whose own buildings were destroyed during terrorist attacks have been forced to pay millions of dollars in damages to victims. Courts across the country have issued decisions holding that a terrorist attack is a “reasonably foreseeable” event and that companies must take reasonable measures to mitigate the possibility of attacks. The problem, however, is that there is no single definition of “reasonable” anti-terror measures. This leaves great uncertainty and creates the significant possibility of massive liability following terrorist attacks.

How Can I Take Advantage of the SAFETY Act?

Any company or property owner that makes, sells, or otherwise deploys a product or service that can be used to combat terrorism can and should seek SAFETY Act protections. Examples of products and services that could receive SAFETY Act protections include physical security services (including risk assessments, contract security services, and internal emergency planning), explosive detection devices, engineering services (including the design and construction of facilities), and cybersecurity products. As long as the product or service has some use against terrorism, it is eligible for SAFETY Act protections. Companies also should take advantage of the SAFETY Act by purchasing SAFETY Act-approved products and services, so they will face no liability for claims arising out of the use of that product or service.

What is Eligible For SAFETY Act Protections?

A wide variety of products and services are eligible for protections under the SAFETY Act. Examples of products and services that have received SAFETY Act protections include intelligent video systems, engineering services, risk and vulnerability assessment services, security guard services, explosive detection equipment, and building security plans. Other technologies such as next generation scanning systems and cybersecurity tools are also eligible for SAFETY Act protections.

Why Utilize Dickstein Shapiro to Obtain SAFETY Act Protections?

Dickstein Shapiro assists in the preparation, filing, and managing of SAFETY Act applications and does so effectively because of its unique level of experience working with clients on SAFETY Act-related issues. Dickstein Shapiro has helped prepare well over 100 of the applications filed with the DHS, making it one of the top law firms on SAFETY Act matters.

Firm attorneys regularly write and speak on the SAFETY Act and have even testified before the House Committee on Homeland Security on the implementation of the SAFETY Act.

Representative Client Experience

Dickstein Shapiro professionals have assisted with a wide variety of SAFETY Act applications. Examples include obtaining SAFETY Act protections for:

- A *Fortune* 500 company’s less detonable industrial product;
- Several large security services corporations;
- The manufacturer of widely used airport screening devices; and
- Cutting-edge surveillance systems.

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