

Department of Homeland Security Issues First Ever SAFETY Act Certifications for Anti-Terror Products and Services

On June 18, the Department of Homeland Security (DHS) issued the first Certifications under the Support Anti-Terrorism By Fostering Effective Technologies Act (SAFETY Act) to Michael Stapleton Associates (MSA), Teledyne Brown Engineering (Teledyne), Lockheed Martin, and Northrop Grumman. McKenna Long & Aldridge LLP (MLA) provided essential assistance related to the SAFETY Act applications filed by Teledyne and MSA to secure Certification from the Department of Homeland Security.

MLA filed the first SAFETY Act application accepted by DHS in October 2003 and has played an extensive role in the Act's legislative and regulatory implementation on behalf of a number of clients. With the issue of these first Certifications, the powerful protections from liability offered by the SAFETY Act are now a reality.

The SAFETY Act, a provision of the Homeland Security Act of 2002, is ground-breaking legislation that provides broad tort reform to encourage the development of safe, effective anti-terrorism products and services critical to national security. This legislation not only protects Certified technologies, but the customers of companies that make these technologies. The SAFETY Act is the first successful tort reform effort undertaken at the federal level, having been signed into law by President George W. Bush on November 25, 2002.

These four companies are the first to receive the distinction of having designated "Qualified Anti-Terrorism Technologies" (QATT) under the SAFETY Act. Teledyne's WaterSabre™ is an ultra high-pressure water cutting system that is operated remotely to cut through various containers without generating excessive heat or force. WaterSabre can be used to provide entry to investigate suspected explosive or hazardous devices.

Similarly, MSA's Explosive Detection Teams (EDT) services and its innovative SmartTech™ system will assist screeners and first responders with the rapid detection of explosive material, significantly limiting false alarms and cutting down on travel delays and business disruptions.

Lockheed Martin's automated, threat-based Risk Assessment Platform is an integrated computer system that provides near real-time, event-driven terrorism threat analysis. The Biohazard Detection System was developed by a Northrop Grumman Corporation-led team, and has been selected by the U.S. Postal Service to rapidly analyze environmental samples and detect potential biological threats at mail-sorting facilities nationwide.

■ Contact Info

If you would like more information, please contact any of the MLA attorneys with whom you regularly work. You may also contact:

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In a press conference held at the National Association of Manufacturers in Washington, DC, Dr. Charles E. McQueary, Under Secretary for Science and Technology at the Department of Homeland Security, noted that "(t)his announcement illustrates that this legislation, and the process to implement it, are working to support businesses that develop technologies to protect the American people. We appreciate and encourage the innovative contributions of the private sector in providing new tools and new technologies that will help protect our homeland, and now it is time to let the marketplace work."

According to Dr. Penrose C. Albright, Assistant Secretary of Homeland Security, the marketplace can expect more Certifications to be issued over time. Companies whose technologies gain SAFETY Act Certification can expect significant tort protections, including:

- Dramatic limitation or elimination of product liability exposure;
- A complete ban on punitive damages; and
- A consolidation of all claims in federal district court.

Most importantly, all four companies received Certification for their technologies under the Act in addition to designation as QATT, and thus are entitled to a presumption of dismissal from any lawsuit filed following an act of terrorism where these technologies have been deployed.

"Companies are navigating new and uncharted waters when it comes to providing products and services designed to fight terrorism," said George Harvey, President of MSA. "The SAFETY Act has helped us secure the protection our company needs so that we can help protect others while limiting our and their liability." Dr. McQueary announced that MSA was the "very first" recipient of SAFETY Act protections at the June 18 press conference.

Thus far, DHS has received 91 Pre-applications and 19 Full Applications for SAFETY Act Designation and Certification.

Should you have questions about the SAFETY Act, please contact [Ray Biagini](#) at 202-496-7687, [John Clerici](#) at 202-496-7574, or [Brian Finch](#) at 202-496-7241.

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