

# BURNS & LEVINSON LLP

## THE HOMELAND SECURITY DEPARTMENT SAFETY ACT

### Northeast Region Federal Laboratory Consortium Meeting

Natick Labs

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# The Homeland Security Department Safety Act

- **WHAT IS THE SAFETY ACT?**
  - Support anti-terrorism by fostering effective technologies
  - Effective July 10, 2006
  - Ensures limitation on liability anti-terrorism related technologies
  - Provides incentives for development and deployment/sale of anti-terrorism technologies

# The Homeland Security Department Safety Act (continued)

- **WHAT ARE THE PROTECTIONS?**
  - Exclusive federal jurisdiction
  - Limitation on liability
  - Prohibits liability for non-economic damages
  - Bar on punitive damages and prejudgment interests
  - Reduction of recovery by amounts from other sources
  - Rebuttable presumption of entitlement to government contractor defense

# The Homeland Security Department Safety Act (continued)

- **DESIGNATION/CERTIFICATION PROCESS**
  - Obtain DHS SAFETY Act application kit
  - Register with DHS
  - Pre-application consultation
  - Fill out form with details for receiving a designation or certification for having qualified anti-terrorism technology (QUATT)
    - Technology and performance
    - Aspects of terrorism
    - Costs
    - Past and projected sales
    - Insurance needs and availability

# Further Safety Act Issues

- **TIMING**
  - 30 days for missing items
  - 90 days for approval or added information
- **GOVERNMENT PROCUREMENT**
- **INSURANCE**
  - Maintain insurance
- **PROTECTING INFORMATION**
  - Mark proprietary information
- **PATENT RIGHTS**
  - Offers for sale

# Conclusion

- **ADVANTAGES**
  - Reduced risk of lawsuits
  - Reduced insurance costs
- **DISADVANTAGES**
  - Application lengthy
  - Insurance must be kept in force