

ASIS SAFETY Act Designation Award for ASIS Certification Programs

FAQs

How does the SAFETY Act Designation affect my customers?

Customers should benefit in that they should not face claims related to employing a person with an ASIS certification or a company that uses ASIS board-certified personnel. The ONLY entity that can face liability claims related to an ASIS certification is ASIS.

What are some examples of how the law would work?

Scenario #1 *Terrorists attack an industrial facility, causing deaths and significant economic losses. The chief security officer at the facility holds a CPP certification. Persons who were injured by the explosion or who lost family sue the facility owner. Claims include allegations that the chief security officer's ASIS certification was insufficient and that the facility purchased an inadequate intrusion detection system. Plaintiffs also sue ASIS, claiming that its certification programs should have helped prepare the chief security officer better for the type of attack that occurred, but did not.*

Impact of the ASIS SAFETY Act Designation – Any claims related to the quality or adequacy of the ASIS certification may only be filed against ASIS. Claims filed against the facility owner alleging that the ASIS certification was insufficient should be dismissed immediately. Such claims may proceed, however, against ASIS, as they are allowed under the SAFETY Act. The facility owner may still face claims related to the intrusion detection system, as that is not covered under the scope of the SAFETY Act protection.

Scenario #2 *Thieves break into a commercial real estate facility. The security manager for the facility holds a CPP certification. In the course of the break-in, the thieves disable the alarm system and steal hundreds of thousands of dollars of equipment. The thieves also damage critical systems in the building, leading to an explosion that causes numerous injuries and causes a significant portion of a downtown area to be shut down. Plaintiffs sue the facility owner for maintaining inadequate security, including alleging that the security manager's ASIS certification was inadequate.*

Impact of the ASIS SAFETY Act Designation – All claims will likely proceed. The break-in, theft, and resulting explosion likely do not qualify as acts of terrorism under the SAFETY Act. An “act of terrorism” must occur in order for the protections of the SAFETY Act to apply, and that is likely not the case here.

Scenario #3 *A security company utilizes an ASIS board-certified PSP to conduct a vulnerability assessment of a critical infrastructure facility. Sometime later, terrorists attack the facility, causing significant damage and loss of life. Plaintiffs sue, among others, the security company. Claims against the security company include allegations that the vulnerability assessment methodology was inadequate and that the ASIS certification did not constitute a sufficient qualification for someone to conduct a vulnerability assessment.*

Impact of the ASIS SAFETY Act Designation – Claims alleging inadequate vulnerability assessment methodology may proceed against the security company. Such claims would not be covered under the ASIS SAFETY Act approval. Plaintiffs should not be able to make a claim, however, based upon the qualifications of the person who performed the assessment. Since the person held a PSP certification, claims relating to the adequacy of the PSP certification should only be filed against ASIS.

Scenario #4 *A security assessment company is planning on expanding into risk assessment work for chemical facilities. In trying to determine ways to mitigate its liability, it begins to review what employment criteria it should utilize, as well as what methodologies it should use when conducting assessments. The company is considering requiring current and potential employees to either have or pursue an ASIS certification, and also is considering adopting risk assessment methodologies that have been approved under the SAFETY Act.*

Impact of the SAFETY Act – The assessment company should use as many SAFETY Act approved methodologies and personnel as possible. That way, it can preclude claims that allege that inadequate methodologies or improperly qualified personnel used by the company somehow led to an inadequate assessment of a chemical facility. In addition, the assessment company should seriously consider pursuing SAFETY Act coverage for itself. That way, it can obtain liability protection for a wider range of its services and offerings, including methodologies that it has generated on its own.

Scenario #5 *An ASIS certification holder provides security assessments as a solo practitioner. She provides risk assessments for manufacturing facilities using her own proprietary vulnerability assessment methodology. One facility she assessed is subsequently attacked by terrorists using a truck bomb. Significant casualties are suffered, and the local economy suffers from business interruption losses. Plaintiffs sue the facility owner alleging inadequate use of security guards, and sue the ASIS certification holder alleging her certification was an inadequate qualification for providing a vulnerability assessment and that her proprietary vulnerability assessment methodology was flawed.*

Impact of the ASIS SAFETY Act Designation – Under the terms of the SAFETY Act, the solo practitioner should not have to face any claims relating to her ASIS certification. Any claims relating to the adequacy of the ASIS certification may only be brought against ASIS itself. The other claims, however, including questions about the adequacy of her proprietary risk assessment methodology and the facility owner's employment of security guards will likely continue.

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