

## Texas v. Allstate: Texas Takes the Lead in State Data Privacy Enforcement

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On January 13, 2025, Texas Attorney General Ken Paxton brought suit against Allstate and its subsidiary Arity for illegally collecting, using, and selling the geolocation and movement data of Texan drivers.<sup>1</sup> Allstate and Arity are alleged to have paid millions of dollars to app developers to integrate Allstate's tracking software into their apps to gather consumers' driving data.<sup>2</sup> The Texas Attorney General's Office claims that Allstate and Arity targeted apps with built-in location-based features, such as Routely, Life360, and Fuel Rewards, to discreetly collect data without alerting consumers.<sup>3</sup> The data collected from customers' phones included geolocation, accelerometer, magnetometer, and gyroscopic information, recording precise details such as a phone's "altitude, longitude, latitude, bearing, GPS time, speed, and accuracy."<sup>4</sup> In total, Allstate amassed location data spanning trillions of miles from over 45 million consumers and created the "world's largest driving behavior database."<sup>5</sup> This data was then allegedly sold to third parties and used to justify increasing car insurance premiums, denying coverage, and refusing policy renewals.<sup>6</sup>

Specifically, Allstate is charged with the violation of the Texas Data Privacy and Security Act (TDPSA), the Texas Data Broker Act, and the Texas Insurance Code.<sup>7</sup> Under the TDPSA, Allstate allegedly failed to provide a clear and accessible privacy notice, processed sensitive data without consumer consent, failed to disclose data sales, conducted targeted advertising without transparency, and did not offer consumers a means to exercise their data rights, including opting out.<sup>8</sup> Under the Texas Insurance Code, Allstate is alleged to have engaged in unfair or deceptive business practices by illegally gathering, processing, and profiting from sensitive personal data

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<sup>1</sup> Kirk J. Nagra et. al., *Texas AG Brings First Ever Lawsuit Under a State Comprehensive Privacy Law*, WILMERHALE, <https://www.wilmerhale.com/en/insights/blogs/wilmerhale-privacy-and-cybersecurity-law/20250121-texas-ag-brings-first-ever-lawsuit-under-a-state-comprehensive-privacy-law> (last visited Feb. 20, 2025) [<https://perma.cc/66HE-HQP3>].

<sup>2</sup> *Attorney General Ken Paxton Sues Allstate and Arity for Unlawfully Collecting, Using, and Selling Over 45 Million Americans' Driving Data to Insurance Companies*, TEXASATTORNEYGENERAL.GOV, <https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-sues-allstate-and-arity-unlawfully-collecting-using-and-selling-over-45> (Jan 13, 2025) [<https://perma.cc/QL5X-FLR8>].

<sup>3</sup> See *supra* note 1.

<sup>4</sup> Ezra Amacher, *Texas Lawsuit Alleges Allstate Illegally Collects Driver Data*, INSURANCE JOURNAL (Jan. 13, 2025), <https://www.insurancejournal.com/news/southcentral/2025/01/13/808043.htm> [<https://perma.cc/BUS7-36VY>].

<sup>5</sup> Anthony Kimery, *FTC, Texas AG Take Action Against Surveillance, Sale of Drivers' Data*, BIOMETRICUPDATE.COM (Jan. 20, 2025, 2:32 PM), <https://www.biometricupdate.com/202501/ftc-texas-ag-take-action-against-surveillance-sale-of-drivers-data> [<https://perma.cc/6P5P-3GYR>].

<sup>6</sup> F. Paul Pittman, *Texas Attorney General's Landmark Privacy Lawsuit Signals New Era in Data Privacy Enforcement*, WHITE & CASE (Feb. 3, 2025), <https://www.whitecase.com/insight-alert/texas-attorney-generals-landmark-privacy-lawsuit-signals-new-era-data-privacy#:~:text=The%20lawsuit%20claims%20that%20Allstate,policy%20non%20renewals%20for%20consumers> [<https://perma.cc/NEK3-ZV25>].

<sup>7</sup> Complaint, *The State of Texas vs. The Allstate Corporation*, <https://www.texasattorneygeneral.gov/sites/default/files/images/press/Allstate%20and%20Arity%20Petition%20File.d.pdf>

<sup>8</sup> Rick Borden & Maria Nava, *Texas AG Ken Paxton Takes Action Against Allstate for Unlawful Data Collection Practices*, TECHNOLOGY LAW (Jan. 16, 2025, 1:08 PM), <https://technologylaw.fkks.com/post/102ju9n/texas-ag-ken-paxton-takes-action-against-allstate-for-unlawful-data-collection-pr> [<https://perma.cc/54HE-SLHM>].

without consumer authorization.<sup>9</sup> Finally, Allstate is accused of violating the Texas Data Broker Act by failing to register with the Texas Secretary of State's Data Broker Registry.<sup>10</sup> The law requires companies operating in Texas to register if they process or transfer personal data from over 50,000 individuals, especially when the data is collected indirectly, as Allstate allegedly does through third-party app developers.<sup>11</sup> This lawsuit marks the first enforcement action filed by a state attorney general under a comprehensive state data privacy law and will set a precedent for future regulatory scrutiny.<sup>12</sup>

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<sup>9</sup> See *supra* note 6.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Michael Kurzer et. al., *Texas AG Targets Allstate in First Enforcement of Texas Data Privacy and Security Act*, VELAW (Feb. 5, 2025), <https://www.velaw.com/insights/texas-ag-targets-allstate-in-first-enforcement-of-texas-data-privacy-and-security-act> [<https://perma.cc/4J9Z-GUTX>]; See also *Ken Paxton Sues Allstate for Alleged Unlawful Collection of Driving Data*, LEGAL NEWSLINE, <https://legalnewsline.com/stories/667584607-ken-paxton-sues-allstate-for-alleged-unlawful-collection-of-driving-data> (Jan. 13, 2025) [<https://perma.cc/6FBV-75HD>].