



STATE OF TEXAS
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

CIVIL INVESTIGATIVE DEMAND

TO: SUBARU OF AMERICA, INC.

Via E-mail:

Daniel Brewer
One Subaru Drive
Camden, NJ 08103-9800

Pursuant to the authority of § 17.61 of the Texas Deceptive Trade Practices – Consumer Protection Act, § 17.41 *et seq.*, Tex. Bus. & Com. Code (DTPA), you are hereby directed to produce the documentary material listed in Attachment A.

You are to make available the documentary material described in Attachment A to the State of Texas's authorized agent designated below. This material may be sent electronically or by courier or certified mail to the Office of Attorney General, 300 W. 15th St., 9th Floor, Austin, Texas 78701, and is due by close of business on May 20, 2024. Please contact the authorized agent to arrange for the secure transmittal of your materials. Also, please review the Definitions and Instructions applicable to this Civil Investigative Demand, which are appended hereto as Attachments B and C, respectively.

This Civil Investigative Demand is relevant to the subject matter of an investigation of possible violations of § 17.46(a) and (b) of the DTPA in relation to the collection and sharing of vehicular data.

TAKE NOTICE THAT pursuant to section 17.62, Texas Business and Commerce Code, any person who attempts to avoid, evade, or prevent compliance, in whole or in part, with this directive by removing, concealing, withholding, destroying, mutilating, altering, or by any other means falsifying any documentary material may be guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$5,000.00 or by confinement in the county jail for not more than one year, or both.

ISSUED THIS 24th day of April 2024.

/s/ Tyler Bridegan
Tyler Bridegan
Director of Privacy Enforcement
Tyler.Bridegan@oag.texas.gov

Authorized Agent: Michael O'Leary
Michael.OLeary@oag.texas.gov
T: (512) 475-4234

ATTACHMENT A

DOCUMENTS TO BE PRODUCED

1. Documents that identify each category and type of Covered Data you collected from a vehicle sold by you.
2. Documents that identify all methods you used to collect Covered Data from a vehicle sold by you.
3. All Agreements for a third-party to collect or share Covered Data on your behalf from a vehicle sold by you.
4. Documents that identify all makes and models of vehicles from which you collected or shared Covered Data.
5. Documents sufficient to show the total number of each vehicle identified in response to Document Request No. 4 that a Vehicle Provider sold to a person reasonably believed to be residing in the State of Texas.
6. Documents that show each representation you made to a person that purchased a vehicle regarding the collection or sharing of Covered Data, including documents sufficient to show when such representations were made.
7. Documents that show each representation you required another Vehicle Provider to make to a person that purchased a vehicle regarding the collection or sharing of Covered Data, including documents sufficient to show when such representations were made.
8. Documents that identify and illustrate each method by which you received consent from a person that purchased a vehicle to collect or share their Covered Data, including documents sufficient to show when you received such consent.
9. All Agreements for you to share Covered Data, including documents sufficient to identify each person with whom you shared Covered Data.
10. Documents that identify each representation you made about the Covered Data shared by you pursuant to an Agreement, including but not limited to marketing materials and representations you made regarding the Covered Data's accuracy, completeness, or compliance with any laws.
11. Documents that identify all restrictions you placed on the further sharing or use of Covered Data you shared pursuant to an Agreement.
12. All versions of your data governance policies and/or any other policies that describe how you use and manage data, including Covered Data.
13. All versions of your public-facing policies displayed on your website or your phone applications during the relevant time period.

ATTACHMENT B

DEFINITIONS

For the purposes of this Demand:

1. **“Agreement”** means any contract, arrangement, or understanding, whether formal or informal, or oral or written, between you and one or more persons, together with all modifications, renewals, or amendments thereto.
2. **“Collect”** means any instance where you received data directly or through a third-party.
3. **“Covered Data”** means any information or data collected about a vehicle, regardless of whether deidentified or anonymized, that you obtained, directly or indirectly, from any vehicle sold by you. **“Covered Data”** does not include any data collected about a vehicle you manufactured but have not sold (e.g., vehicle testing data or test drives at a car dealership).
4. **“Document”** means the original and all non-identical copies (whether different from the original because of notes, underlining, attachments, or otherwise) of all computer files, and all written, printed, graphic, or recorded material of every kind, regardless of authorship. It includes communications in words, symbols, pictures, photographs, sounds, films, and tapes, as well as electronically stored information, computer files, together with all codes and/or programming instructions and other materials necessary to understand and use such systems.
5. **“Documents sufficient to show”** means documents sufficient to provide the Division with a true and correct disclosure of the factual matter requested.
6. **“Including”** means including but not limited to.
7. **“Person”** means any entity or natural person.
8. **“Receive”** means being made available to you in writing or by electronic or other means.
9. **“Relate,” “related,” and “relating”** mean being in any way legally, logically, or factually connected with the subject matter of the request at issue.
10. **“Representations”** means any statement, whether oral or written.
11. **“Sold”** means the sale of a vehicle manufactured by you to an individual, whether directly sold to an individual by you or indirectly through any other Vehicle Provider.
12. **“Sharing”** means selling, renting, licensing, releasing, disclosing, disseminating, or otherwise making available in writing or by electronic or other means.
13. **“To identify”** a person means to provide a person’s legal name and current or last known contact information, including their email address.
14. **“Vehicle Provider”** means any entity that engages in the wholesale, resale, or leasing of vehicles, whether new or used, including but not limited to vehicle manufacturers, car dealerships, and short- and long-term vehicle rental companies.
15. **“You” or “Your”** refers to Subaru Of America, Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names,

and affiliates, and all directors, officers, members, employees, agents, consultants, and other persons working for or on behalf of the foregoing.

16. The words “**and**” and “**or**” shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of the request, any document(s) that might be deemed outside its scope by another construction.
17. Unless the context otherwise clearly indicates, words used in the singular include the plural, the plural includes the singular, and the neuter gender includes the masculine and the feminine.

ATTACHMENT C

INSTRUCTIONS

1. **Read These Instruction/Definitions.** Read these instructions and definitions carefully.
2. **Meet and Confer.** Before you prepare documents or information for production in electronic form (for example, before you attempt to process electronically stored information or image hard copy documents), *please consult with Michael O'Leary regarding the format and method of production.* Unless otherwise agreed to in writing by the designated OAG representative, electronically stored information shall be produced in electronic form. You must also confirm with Mr. O'Leary to resolve issues regarding the secure transmission of the requested information.
3. **Duty to Preserve Documents.** All documents and/or other data which relate to the subject matter or requests of this Civil Investigative Demand must be preserved. *Any ongoing, scheduled, or other process of document or data destruction involving such documents or data must cease even if it is your normal or routine course of business for you to delete or destroy such documents or data and even if you believe such documents or data are protected from discovery by privilege or otherwise.* Failure to preserve such documents or data may result in legal action and may be regarded as spoliation of evidence under applicable law.
4. **Relevant Time Period.** Unless otherwise noted, the requests in this Civil Investigative Demand require production of documents for the time period January 1, 2019, through the date you received this Civil Investigative Demand.
5. **Custody and Control.** In responding to this Civil Investigative Demand, you are required to produce not only all requested documents in your physical possession, but also all requested documents within your custody and control, including those within the possession of persons reasonably available to you or under your direction or control.
6. **Identification of Documents not in Custody or Control.** If any responsive document was, but no longer is, in your possession, custody, or control, produce a description of each such document. The description shall include the following:
 - a. the name of each author, sender, creator, and initiator of such document;
 - b. the name of each recipient, addressee, or party for whom such document was intended;
 - c. the date the document was created;
 - d. the date(s) the document was in use;
 - e. a detailed description of the content of the document;
 - f. the reason it is no longer in your possession, custody, or control; and
 - g. the document's present whereabouts.

If the document is no longer in existence, in addition to providing the information indicated above, state on whose instructions the document was destroyed or otherwise disposed of, and the date and manner of the destruction or disposal.

7. **Privileged Documents.** If any responsive document is withheld, in whole or in part, under any claim of privilege, provide a detailed privilege log that contains at least the following information for each document or partial document that you have withheld:
 - a. the document's control numbers;
 - b. all authors of the document;
 - c. all addressees of the document;
 - d. all recipients of the document or of any copies of the document, to the extent not included among the document's addressees;
 - e. the date of the document;
 - f. a description of the subject matter of the document sufficient to determine the applicability of the privilege;
 - g. the nature or type of the privilege that is being asserted for the document (e.g., "attorney-client privilege");
 - h. the specification(s) of the Demand to which the document is responsive;
 - i. the document control number(s) of any attachments to the document, regardless of whether any privilege is being asserted for such attachment(s); and
 - j. whether the document has been produced in redacted form, and if so, the range of the control numbers for the document.
8. **Trade Secrets.** It is your responsibility to clearly designate which, if any, of the requested documents contain trade secrets, in accordance with Section 17.61(f) of the Texas Business & Commerce Code.
9. **Non-identical Copies to be Produced.** Identical copies of responsive documents need not be produced. However, any copy of a document that differs in any manner, including but not limited to the presence of handwritten notations, different senders or recipients, etc. shall be produced.
10. **No Redactions.** All materials or documents produced in response to this Civil Investigative Demand shall be produced, except as deemed privileged, in complete unabridged, unedited, and unredacted form, even if portions may contain information not explicitly requested, or might include interim or final editions of a document.
11. In any situation in which it is not clear in which capacity you are responding, you are to designate all relevant capacities.
12. All document requests are continuing in nature; thus, you are required to supplement your response if you obtain additional responsive documents.