

How Seatbelt Evidence Can Now Be Used Against You in a Georgia Car Accident Claim

The Rule That Protected Georgia Crash Victims for Decades Is Gone

There was a time when a [Georgia crash victim](#) could walk into a courtroom knowing that one thing was off the table. It didn't matter whether they were wearing a seatbelt or not.

The law said that fact couldn't be used against them. It couldn't be called negligence. It couldn't [reduce their compensation](#). It couldn't even be mentioned to the jury. That protection existed in Georgia for decades, and injured people and their attorneys built cases around it.

[Senate Bill 68](#) eliminated it. As of April 21, 2025, seatbelt nonuse is now admissible evidence in Georgia car accident cases, and the insurance company on the other side of your claim already knows exactly how to use it.

At the [Law Offices of Gary Martin Hays & Associates, P.C.](#), we want Georgia families to understand what changed, why it matters, and what it means for the value of a claim when a seatbelt wasn't buckled at the time of a crash.

What Georgia Law Said Before SB 68

For decades, [Georgia Code § 40-8-76.1](#) contained what legal practitioners called the seatbelt gag rule. That statute specifically prohibited defendants from using a victim's failure to wear a seatbelt as evidence of negligence or causation, as a basis for reducing damages, or as a factor in determining liability. Georgia's Supreme Court confirmed that the rule applied broadly, and courts consistently kept seatbelt evidence out of civil injury cases.

The rationale behind the rule was grounded in fairness. The person who [ran the red light](#), crossed the centerline, or [rear-ended a stopped vehicle](#) was the one who caused the crash. Whether the victim was buckled had no bearing on who created the dangerous situation.

Allowing the defense to shift the focus to the victim's seatbelt habits was seen as a way to distract from the at-fault driver's conduct and unfairly penalize people for an imperfection that had nothing to do with why the crash happened in the first place.

That reasoning didn't survive the tort reform process.

What SB 68 Changed and How It Works Now

Senate Bill 68 struck down the seatbelt gag rule and replaced it with a framework that gives defendants and their insurance companies a powerful new tool in car accident litigation. Under the new law, evidence of seatbelt nonuse is now admissible on all of the following issues:

- **Negligence:** The defense can argue that failing to wear a seatbelt was itself a negligent act that contributed to the injuries sustained.
- **Comparative Negligence:** Seatbelt nonuse can now be factored into Georgia's [comparative fault](#) analysis, potentially increasing the percentage of fault assigned to the victim.
- **Causation:** The defense can present evidence and expert testimony arguing that the victim's injuries would have been less severe, or wouldn't have occurred at all, if they had been wearing a seatbelt.
- **Assumption Of Risk:** In some cases, the defense may argue that choosing not to wear a seatbelt represented a conscious assumption of the risk of injury.
- **Apportionment Of Fault:** Jurors can now assign a percentage of fault to the victim specifically because of seatbelt nonuse, which directly reduces the total compensation they can recover.

It's worth noting that trial judges retain some discretion to exclude seatbelt evidence if its probative value is outweighed by the danger of unfair prejudice. But that discretion is narrow, and in most cases where seatbelt nonuse is relevant to the injuries claimed, the defense will get this evidence in front of the jury.

The Real-World Impact on Compensation

Georgia operates under a modified comparative negligence system. Under [O.C.G.A. § 51-12-33](#), an injury victim's compensation is reduced by their percentage of fault, and a victim found to be 50 percent or more at fault cannot recover anything at all.

Before SB 68, seatbelt nonuse played no role in that calculation. Now it does, and the financial consequences can be severe.

Consider a Georgia driver who is rear-ended at a stoplight by a [distracted driver](#). The collision causes [serious spinal injuries](#). The at-fault driver is clearly responsible for causing the crash. But the victim wasn't wearing a seatbelt, and the defense brings in a biomechanical expert who testifies that seatbelt use would have significantly reduced the severity of the spinal injuries.

If the jury assigns 30 percent of the fault to the victim based on seatbelt nonuse, a \$500,000 verdict becomes a \$350,000 recovery. If the expert testimony is particularly persuasive and the jury assigns 40 percent fault, the recovery drops to \$300,000. The at-fault driver caused the entire crash, but the victim's compensation is reduced by nearly half because of a seatbelt that had nothing to do with why the collision happened.

That's the practical consequence of what SB 68 put into law.

When This Change Applies to Your Case

The seatbelt admissibility change under SB 68 applies to actions filed after the bill's approval on April 21, 2025. Cases that were already pending when the law took effect are not subject to the new seatbelt rule. If your case was filed before that date, the old gag rule still applies and the defense cannot introduce seatbelt evidence against you.

For cases filed after April 21, 2025, the new rules are fully in play. This distinction matters enormously for anyone who was injured around the time the law changed, and it's one of the first things an experienced Georgia car accident lawyer will analyze when evaluating a new case.

How Insurance Companies Are Already Using This

Insurance adjusters and defense attorneys have been preparing to deploy the seatbelt argument since the moment Governor Kemp signed SB 68. It gives them a versatile tool they can use at multiple stages of a claim, not just at trial.

In pre-litigation negotiations, an adjuster may bring up seatbelt nonuse early and often to pressure a victim into accepting a lower settlement before the legal issues are fully understood.

In litigation, the defense may invest heavily in biomechanical expert testimony designed to convince a jury that the seatbelt gap explains most of the serious injuries being claimed. In cases where the victim's injuries are severe, this argument can shift enormous amounts of money from the victim's column to the defense's column.

Georgia crash victims who weren't wearing seatbelts need to understand that the insurance company is NOT raising this issue out of concern for road safety. They are raising it because SB 68 gave them a financial weapon, and they intend to use it.

What You Can Still Do to Protect Your Claim

Seatbelt nonuse no longer destroys a Georgia car accident claim the way insurance companies want victims to believe it does. What it does is create an additional battleground that has to be fought and won.

The strength of a case still depends primarily on who caused the crash and what the full consequences of that crash have been for the victim's life.

A skilled Georgia car accident lawyer can work to limit the damage the seatbelt argument does by challenging expert testimony, contextualizing the evidence, and keeping the jury focused on the conduct of the driver who created the dangerous situation in the first place.

These are the steps Georgia crash victims should take to protect their claims when seatbelt nonuse is a factor:

1. **Seek Medical Care Immediately And Follow Through:** A complete, consistent medical record that [documents the full scope of injuries](#) makes it harder for the defense to attribute everything to seatbelt nonuse.
2. **Preserve All Evidence From The Scene:** [Photographs](#), [witness information](#), [dashcam footage](#), and the [police report](#) all help establish what actually caused the crash and who bears responsibility for it.
3. **Avoid Recorded Statements Without Legal Counsel:** Insurance adjusters will [ask questions](#) designed to amplify the seatbelt issue and make it sound more legally significant than it is under the current framework.
4. **Get Legal Representation Early:** The sooner an attorney is involved, the sooner the defense's seatbelt strategy can be anticipated and countered with the right evidence and expert positioning.

The law changed. But the driver who caused your crash is still responsible for what they did, and Georgia still holds negligent drivers accountable for the harm they cause.

Georgia's Power Law Firm Fights for Full Accountability

No one should walk away from a serious crash with reduced compensation simply because of a seatbelt. The Law Offices of Gary Martin Hays & Associates, P.C. has been standing up for injured Georgians for more than 30 years, and we know how to build cases that hold their value even when the defense tries to shift the focus away from what actually happened on that road.

If you were injured in a Georgia car accident and seatbelt nonuse is part of the picture, [contact us today](#) for a free consultation with an experienced Georgia car accident lawyer. We handle injury cases on a contingency fee basis, which means there are no upfront costs and no legal fees of any kind unless we recover compensation for you.