

Pedestrian Accidents Involving Drunk Drivers In Georgia

When An Impaired Driver Changes Everything In An Instant

A pedestrian struck by a [drunk driver](#) doesn't just face the physical consequences of the crash. They face the disorienting reality that someone made a deliberate choice to drive impaired, that a bar or restaurant may have kept serving that person despite visible intoxication, and that the insurance company defending the driver will still try to find a way to minimize what they owe. The collision itself lasts less than a second. The injuries it leaves behind can define the rest of that person's life.

Georgia pedestrian crashes involving impaired drivers are among the most severe collisions on the road, because a drunk driver who doesn't brake before impact delivers the full energy of the vehicle's speed directly into a person with no protective barrier. Survivors of these crashes often face traumatic brain injuries, spinal cord damage, multiple fractures, and internal organ injuries that require months of hospitalization and years of recovery, if full recovery is even possible.

At the [Law Offices of Gary Martin Hays & Associates, P.C.](#), our [Georgia pedestrian accident lawyers](#) represent people struck by drunk drivers in Atlanta, Marietta, Alpharetta, and communities throughout the state. These cases often carry multiple liability theories simultaneously, and knowing how to pursue each one is the difference between a settlement that covers the real cost of the injury and one that leaves the victim carrying the long-term burden alone.

The Legal Theories That Apply When A Drunk Driver Hits A Pedestrian

A DUI pedestrian crash doesn't fit the same single-defendant, single-insurer framework that a typical crash does. The impaired driver is obviously liable, but they're often not the only party who contributed to the conditions that put them on the road. Georgia law recognizes multiple overlapping theories of liability that can all be in play at the same time.

The legal paths available to someone hurt by an impaired driver in Georgia include:

- **Negligence Per Se Based On The DUI Violation:** When a driver violates a statute designed to protect the public from a specific class of harm, that violation is negligence per se under Georgia law. A drunk driver who strikes a pedestrian has already violated [O.C.G.A. § 40-6-391](#), Georgia's DUI statute, and that violation removes the injured person's burden of proving what a reasonable driver should have done. The driver was legally prohibited from being behind the wheel. That prohibition is the standard.
- **Dram Shop Liability Against The Establishment That Served Them:** Georgia's [dram shop statute under O.C.G.A. § 51-1-40](#) allows an injured person to pursue a claim against a licensed alcohol retailer that sold or served alcohol to a noticeably intoxicated person, when that intoxication was a proximate cause of the injury. This is a separate and independent claim from the driver's liability, and it reaches the [bar, restaurant, or retailer's insurance policy](#) rather than just the driver's.

- **Punitive Damages Against The Impaired Driver:** Georgia's punitive damages statute applies in [DUI crash cases](#) when the driver's conduct was willful, wanton, or demonstrated conscious indifference to consequences. A driver who chose to drive after consuming enough alcohol to be legally impaired under Georgia law has made a conscious choice with foreseeable consequences, and courts have consistently allowed punitive damages in these cases. Punitive damages don't replace the compensatory recovery. They're awarded on top of it.
- **Family Purpose Doctrine Liability Against The Vehicle Owner:** If the drunk driver was using a vehicle maintained for general family use and crashes while on a family purpose, the vehicle's owner may be liable under the family purpose doctrine regardless of whether they knew the driver was impaired. This matters when the driver's personal assets and coverage are insufficient to cover the actual cost of the injuries.

Georgia's DUI Law And What It Means For Pedestrian Crash Cases

Georgia law defines driving under the influence under O.C.G.A. § 40-6-391 as operating a vehicle while under the influence of alcohol to the extent it's less safe to drive, with a blood alcohol concentration of 0.08 grams or more, or while under the influence of any drug that renders the driver less safe. That definition matters for the civil case because a criminal DUI conviction is admissible in the civil proceeding, and even a BAC reading that doesn't result in criminal conviction can still establish civil liability.

The interaction between the criminal case and the civil case is one of the most misunderstood aspects of DUI pedestrian crash claims. A driver who pleads to a lesser charge, has the DUI reduced, or even is acquitted in criminal court has not avoided civil liability. The civil standard of proof is preponderance of the evidence, not beyond a reasonable doubt. Evidence that wasn't enough to convict can still be more than enough to win a civil judgment, and the civil case doesn't depend on the outcome of the criminal prosecution.

Consider a pedestrian crossing at a marked crosswalk near a midtown Atlanta bar district when a driver with a BAC of 0.12 runs the light and strikes them at 35 mph. The driver may later claim the pedestrian stepped out unexpectedly. The bar that served the driver four drinks in the 90 minutes before the crash may deny that the driver appeared intoxicated. The criminal case may resolve with a plea to reckless driving rather than DUI. None of that forecloses a civil case that pursues the driver, the bar, and the vehicle owner simultaneously, using the BAC evidence, surveillance footage from the intersection, and the bar's own service records as the foundation of the claim.

Pursuing The Establishment That Served The Driver

Georgia's dram shop claim is narrower than some states' versions but still meaningful in the right case. Under O.C.G.A. § 51-1-40, the injured person must show that the establishment served or sold alcohol to a noticeably intoxicated person, meaning there had to be observable signs of intoxication at the time of service. That standard requires evidence about what the bar or restaurant staff saw and served, which is why the investigation into a dram shop claim starts with the establishment's records immediately after the crash.

A driver who struck a pedestrian with a BAC of 0.15 or higher almost certainly showed signs of intoxication that a trained server would have recognized. Slurred speech, impaired balance, and difficulty ordering are all observable signs that experienced staff are trained to identify. Receipts showing the number of drinks served and the time of service, combined with the driver's BAC at the time of the crash, can establish a timeline that supports the "noticeably intoxicated" element even without a server admitting they knew.

Alcohol involvement has been identified as one of the leading factors in fatal crashes nationally. In Georgia, that pattern plays out on local roads and in urban intersections where bar districts, [late-night traffic](#), and pedestrian activity overlap. Our attorneys know how to build dram shop cases, and we know how quickly that evidence disappears if no one moves to preserve it.

Evidence That Must Be Secured Immediately

The evidence that supports a DUI pedestrian crash claim starts deteriorating the day of the crash. Surveillance footage overwrites on short cycles. Bar receipts and pour logs aren't retained long-term. Witness memories fade. The police report exists, but a well-built civil case requires far more than a traffic incident report.

Critical evidence in a DUI pedestrian crash claim includes:

- **The Driver's BAC Test Results And Chain Of Custody Documentation:** Blood and breath test results from the scene are the foundation of the negligence per se claim. Chain of custody documentation ensures those results are admissible in the civil proceeding.
- **Surveillance Footage From The Bar And From The Crash Location:** Most bar establishments have interior surveillance covering their bar service areas, and intersection cameras or nearby business cameras may have captured the crash itself. This footage has retention periods as short as 30 to 72 hours without a preservation demand.
- **Bar And Restaurant Service Records And Receipts:** The driver's drink order history, server assignments, time stamps, and the establishment's policies and training materials are all discoverable in a dram shop case. These require a litigation hold directed to the establishment before routine purging occurs.
- **The Driver's Social Media And Phone Activity Before The Crash:** Posts, check-ins, and communications documenting the driver's location and activity in the hours before the crash can corroborate the intoxication timeline and establish how long they were drinking.
- **Medical Records Documenting The Full Extent Of The Injuries:** DUI pedestrian crashes produce injury patterns that are frequently catastrophic and frequently underestimated in their long-term consequences. [Traumatic brain injury](#), spinal cord damage, [broken bones](#), and internal organ injuries all require complete documentation from the emergency treatment through the full recovery trajectory.

Damages And How Georgia's SB 68 Framework Applies

The [damage calculation](#) in a DUI pedestrian crash is complicated by the same Georgia Senate Bill 68 framework that affects every serious personal injury case arising on or after April 21, 2025. Under SB 68's [phantom damages provisions](#), the defense will present the jury with both the billed cost of the injured person's medical care and the amount actually paid by insurance, and argue that the insured amount reflects reasonable medical value. In a DUI pedestrian crash involving catastrophic injuries, the gap between billed and insured amounts can be hundreds of thousands of dollars.

Building a damages case that survives this framework requires expert testimony on the actual cost of future care, evidence about how the injury will affect the person's earning capacity over the course of their working life, and a thorough presentation of non-economic harm. [Pain and suffering damages in Georgia car and pedestrian accident cases](#) must be documented and presented in a way that connects the specific injury to the specific life impact for that person, not through a generic formula.

When a DUI pedestrian crash results in a fatality, Georgia's wrongful death statute governs the family's recovery. [Wrongful death claims arising from DUI crashes](#) are among the clearest cases for punitive damages because the driver's decision to drive impaired was both knowing and voluntary, and that voluntary choice produced a foreseeable consequence.

What Georgia Law Allows When An Impaired Driver Strikes A Pedestrian

Georgia law gives pedestrians hurt by drunk drivers several tools that other crash victims don't have: negligence per se, dram shop liability, and punitive damages exposure against the driver. But those tools only produce a full recovery when the investigation moves quickly, the right defendants are identified, and the liability picture is built before evidence disappears.

Since 1993, our firm has recovered [over \\$1 billion for Georgia families](#) hurt in crashes of every kind. Our Georgia pedestrian accident lawyers know how these cases unfold from the day of the crash through trial, and we know how insurance carriers defend drunk driving claims in Georgia courts.

Our representation costs you nothing out of pocket. We work on a contingency fee arrangement, meaning our fee is collected only when we've secured a recovery for you, and there's nothing owed if we don't win. If a drunk driver hurt you or took someone you love, [contact us](#) today to begin an investigation before the evidence is gone.