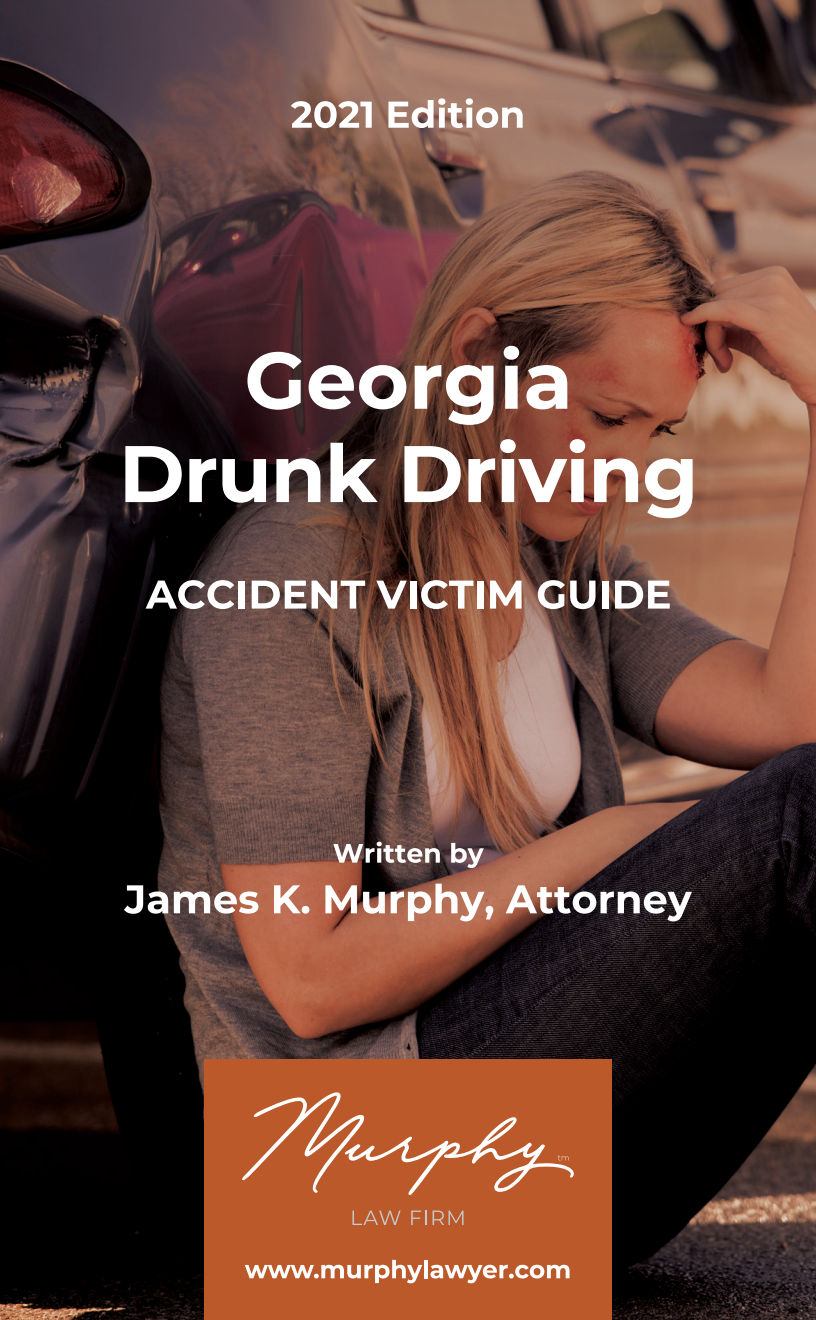

2021 Edition

Georgia Drunk Driving

ACCIDENT VICTIM GUIDE

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Georgia

Drunk Driving

Accident Victim Guide

This publication is intended to educate the public about personal injury issues involved with drunk driving accidents. **This information in this publication is not legal advice, as every case is different**. The receipt or purchase of this book does not in any way create an attorney-client relationship with me.

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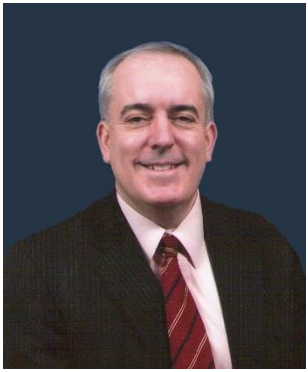


[From the Author]

In an ideal world, Georgia roads would be a safe place for my three teens to drive. As a busy, practicing attorney of 25+ years, experience has taught me that is not the case, and I fear for my kids every time they get behind the wheel.

There are just far too many of our Georgia neighbors, friends, and family members getting injured due to drivers making poor choices, and driving while intoxicated. What follows the crash? Emotional and physical pain, medical bills, endless insurance phone calls, financial stress, confusion, and frustration.

After realizing that most victims of drunk driving accidents had the same questions, I went ahead and made this book to provide the public with the answers they need. You deserve to know why the insurance company treats your family like a number, what protection your family may have in the event of a drunk driving accident, and what laws may protect you.

The 3 Most Important Things Georgia Drunk Driving Accident Victims and Their Families Should Know

I represent victims, not drunk drivers. Each year, many innocent people are robbed of life when someone else chooses to drive under the influence. Many others sustain serious injury at the hands of people who ignore the law by getting behind the wheel after having too much to drink. While it is up to our lawmakers, judges, prosecutors, and criminal juries to hold drunk drivers responsible for their criminal activity, it is my job to ensure that they compensate victims for every loss they cause.

If you or a loved one have become a DUI accident victim, I offer my sympathy. I also want you to know that while we cannot reverse time and undo the harm, we can seek justice. In my time as a lawyer, I have heard many heart–wrenching stories. I have also learned that victims and their families are left asking questions. I therefore offer the following information in hopes that it will provide some guidance as you begin your search for justice:

1. Even if the drunk driver who caused the accident was uninsured, you may be able to recover damages (i.e. monetary compensation) from your own insurance company.

In Georgia, some car insurance policies come with uninsured motorist coverage – also known as UM coverage. This type of insurance coverage is designed to protect you against uninsured drivers – including drunks. Most insurance companies offer substantial UM coverage for only a few dollars per month. Although we cannot always protect ourselves against intoxicated drivers, we can guard against medical bills and other financial losses by purchasing sufficient UM coverage. I highly recommend having a very high limit of coverage on your UM policy (up to a million dollars,

if you can afford it). If you or a family member have sustained any harm or loss because of an uninsured drunk driver, UM coverage may be the difference between financial recovery and tremendous unpaid medical bills.

2. Even if the DUI driver who caused the accident only had minimum limits insurance, you may still be able to recover compensation from your insurance company.

Similar to UM coverage, most auto insurance policies sold in our state must give you the opportunity to buy underinsured motorist coverage (UIM). UIM coverage protects you and your family when an at-fault driver is insured, but lacks sufficient coverage to pay for all your losses. For instance, if a drunk driver crosses into the wrong lane of traffic and causes a head-on collision, the resulting injuries could be very serious. The accident victim's medical bills may be $100,000 or more. However, the intoxicated driver might only have $25,000 in coverage. This is a situation where UIM coverage would kick in and pay for losses that the drunk driver's policy could not cover.

Similar to uninsured motorist coverage, UIM generally cost only a few dollars per month. Georgia DUI accident victims often need considerable UIM coverage to cover anything close to full compensation for the harm they suffer. If you have been victimized by a drunk driver and have UIM coverage, put it to use. You may even be able to stack your policies – a process I would be glad to explain to you in person or over the phone, as there's not enough space in this book to address the nuances of stacking.

3. If the drunk driver became intoxicated at a bar or restaurant, you may be able to recover compensation from the establishment's insurance company.

The law holds us responsible for our actions. Therefore, if a bar serves a customer too much alcohol, and then allows that person to get on the road, the bar could be required to account for any harm the drunk driver causes. This is known as Georgia dram shop liability. Like UM and UIM coverage, dram shop liability can sometimes be the difference between a life spent paying back medical bills, or recovering a just and fair amount of compensation.

"What happens when a Georgia bar or restaurant get someone drunk then puts them on our roadways?"

Every night in Georgia, bars and restaurants over-serve patrons, then put them on our roadways. Whether it be a second bottle of wine in the fine restaurant, or too many rounds of tequila in a college bar, businesses often sell far more alcohol to a driver than should be consumed before hitting the road. Bars and restaurants are in the business of making money. Alcohol produces huge profits for many of them. Therefore, I recognize that owners of these establishments must sell large quantities of beer, wine, and liquor if they are to make a living. That is perfectly understandable. As a lawyer, I am also a small business owner, and not one to interfere with free enterprise. However, if these establishments are going to serve alcohol, they must accept the responsibilities that comes with the activity.

In Georgia, one of those responsibilities is the "dram shop liability." The idea is that if you get someone drunk, then you are, in part, responsible for what the drunk person does when he or she leaves your establishment. For instance, if a restaurant over-serves a couple with complimentary champagne after the couple has already consumed two bottles of wine, the restaurant may be liable if the husband crashes into an innocent driver on the way home. Likewise, if a bar hosts a college party, and one of the young girls drinks too much liquor then strikes a pedestrian, the bar could be held, in part, responsible.

What Civil Laws Protect You Against Drunk Drivers?

This is a question victims want answered after being in a wreck with a drunk driver. In addition to holding the drunk driver criminally liable, Georgia law allows you to seek compensation for the harm the criminal caused.

In Georgia, having a blood alcohol concentration of .08% or higher will likely result in a driver facing charges of driving under the influence (DUI). Driving laws examine the driver's actual chemical, mental, and physical impairment. If at the time of the accident, the driver's blood alcohol concentration was over the legal limit, he or she can be charged with a drunk driving offense.

Drivers younger than 21 who are caught with a blood alcohol concentration of .02% or higher may be charged with alcohol offenses well. The penalties for DUI will vary based on the driver's age, level of intoxication, and history of previous DUI charges.

According to the Georgia Governor's Office of Highway Safety, there were 1,223 fatal crashes reported in Georgia in 2011. Of those fatal accidents, 277 crashes involved drivers found to have been impaired with a blood alcohol concentration of .08% at the time of the accident.

Key evidence from the accident includes the police report containing the drunk driver's blood alcohol concentration test results, any additional physical tests, as well as the officer's and eye-witnesses' notes. Dash cam video might also provide evidence.

As an attorney, I will research the other driver's DUI conviction history. If the driver has past DUI convictions, suspended licenses due to DUI charges, or other DUI-related legal issues, it may only increase the damages owed. It is a relief to see that Georgia law seeks to punish and deter drunk driving while also allowing fair compensation for innocent victims. My focus is obtaining justice for the innocent and their love ones.

Evidence in a Civil Case Against a Drunk Driver

The number of drunk driver victims in the US increases every hour. According to the Center for Disease Control and Prevention, it's estimated that a person dies every 48 minutes because of an alcohol-impaired drivers. In addition to the thousands of deaths that occur in these accidents each year, many others sustain serious injuries.

To cover the cost of medical bills, repairs, and other damages, we must collect and present evidence of the at-fault driver's intoxication. Such evidence includes:

The Police Report – The accident report and supplemental findings often contain evidence of the at-fault driver's traffic violations, blood alcohol level, and admissions of guilt.

Video – Dash cam and breathalyzer videos help establish the driver's physical impairment, slurred speech, and lack of remorse.

Pictures – Photos of the accident scene help identify additional traffic laws and safety violations committed by the at-fault driver. For instance, did the driver's intoxication result in him running a red light? Photos of the property damage to your car are important in establishing the severity of the injury.

Witness Affidavits – If you speak with any witnesses at the accident scene, make sure to get their contact information. Witnesses are key to proving cases where liability is in dispute. And yes, even in drunk driving accidents, insurance companies often claim their insured was not responsible for the crash. Witness affidavits bolster your case, expose the drunk driver's untruths, and may help resolve your case without need of a lawsuit.

A lawyer should collect this evidence and much more in preparing a case against a drunk driver. Insurance companies recognize that juries show little mercy in DUI cases, but evidence remains critical to ensuring that fair compensation is received.

Drunk Drivers, Innocent People, & Punitive Damages

Many Georgia DUI victims are awarded punitive damages in their civil case against the drunk driver. Punitive damages are meant to punish the defendant and to deter similar behavior in the future. In order for punitive damages to be awarded in Georgia, the injured person or his family must be able to prove through clear and convincing evidence that the defendant acted in a grossly negligent or reckless manner in regards to the victim's well-being. Put simply, we have to prove the at-fault driver was intoxicated when he chose to get behind the wheel.

Factors that could affect punitive damages in a DUI case include:

- Severity of injury and its effects on your life;
- Defendant's level of intoxication i.e. blood level alcohol;
- Defendants liability for the injury;
- Any previous drunk driving convictions for the defendant;
- Whether punitive damages are likely to serve as a deterrent to future behavior.

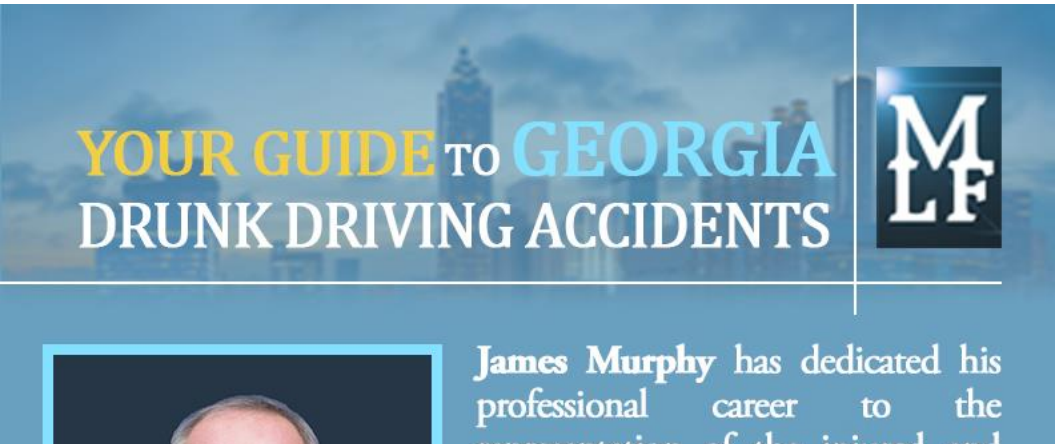
The total amount of punitive damages DUI victims can receive varies greatly. In general, punitive damages cannot exceed three times the amount of actual damages the victim is receiving, or $500,000, whichever is higher. However, in cases where the defendant could be subject to a felony conviction, the cap is the greater of four times the actual damages or $2 million. Then there are situations in which there is no cap at all on punitive damages, including:

- If the defendant had an intent to harm the victim;
- If the defendant's behavior resulted in a felony conviction;
- If the defendant acted or neglected to act while impaired by alcohol or drugs.

Georgia law recognizes that drunk drivers must be punished, and victims must be made whole. If you were injured by a drunk driver, punitive damages are likely available to you. Such damages not only protect your rights, they are also designed to keep our roadways and community safe. Our state cannot become a safe haven for unsafe, intoxicated drivers. Punitive damages are one means by which we protect each other and punish drunk driving.

My job is to help injured people receive fair and full compensation for all their losses. The only way to achieve this is to hold at-fault parties responsible for the harm they cause or set in motion. Therefore, when a drunk driver injures or kills an innocent person, the drunk driver, as well as the bars or restaurants that set the foreseeable event in motion, must be held accountable. Otherwise, the loss falls on the shoulders of the innocent.

If you or one of your family members have been hurt because of the actions of a drunk driver, I recommend speaking to a lawyer as soon as possible. If you allow too much time to pass, crucial evidence may disappear, and it could become difficult to prove your case.

You may give my law office a call anytime to set up a free consultation for you and your family.

Free Consultation: 770-577-3020