How Do You Prove Distracted Driving After a Georgia Car Accident?

Phone Records, Vehicle Data, and Witnesses That Show the Other Driver Wasn't Paying Attention

Proving distracted driving after a Georgia car accident takes more than a hunch about the other driver's phone. Drivers rarely admit it, and a police officer arriving minutes later may never see the phone in their hand. A strong Georgia car accident claim builds that proof from records, data, and people who saw what happened.

The stakes are high. According to the National Highway Traffic Safety Administration (NHTSA), 3,208 people were killed in distracted driving crashes in 2024. An estimated 315,167 more were injured. Behind each number is a family facing medical bills, lost income, and an insurer that may dispute what caused the crash.

Our Georgia car accident attorneys at Gary Martin Hays, LLC know where distraction leaves a trail. We also know how quickly some of it can disappear. Gathering that evidence early can turn a claim the insurer brushes off into one it has to take seriously.

At a Glance

- **Georgia Bans Handheld Phone Use** – Georgia drivers can't hold or support a phone while driving or read and send texts behind the wheel.
- **A Ticket Isn't Required** – An injury claim can prove distraction with other evidence, even if police never cited the driver.
- **Phone Records Show Timing, Not Always Content** – Carrier logs can show calls, texts, and data use around the crash, though message content is harder to get.
- **Vehicle Data Fills in the Gaps** – Event data recorders and infotainment systems can show speed, braking, and phone activity through the car's Bluetooth connection.
- **Evidence Has a Shelf Life** – Video, phone data, and vehicle data can be overwritten or lost, so preservation requests need to go out quickly.

https://www.youtube.com/shorts/g6dNkaxvO2w

What Counts as Distracted Driving in Georgia?

Distraction comes in more than one form. Gary Martin Hays explained the types in a short video on distracted driving. Visual distraction is when "the person's taking their eyes off the road." Manual distractions mean "they're using their hands, taking it off the wheel to do something like adjusting the radio."

The third type is cognitive, when drivers are "taking their mind off of driving." A phone can cause all three at once. That's why texting leads to so many distracted driving accidents. It's also why evidence of one kind of distraction often points to the others.

What the Hands-Free Georgia Act Prohibits

Georgia's distracted driving law, O.C.G.A. § 40-6-241, took effect in 2018. It bars drivers from holding or supporting a phone with any part of their body. It also bans writing, sending, or

reading texts, emails, and social media posts. Watching or recording videos while driving is banned too.

The Governor's Office of Highway Safety (GOHS) lists fines of up to $50 for a first conviction. Fines rise to $100 for a second and $150 for a third within 24 months. Those penalties are small, but a violation still matters in an injury case. It shows the driver broke a safety law meant to prevent crashes.

Do Police Have to Write a Ticket to Prove Distraction?

No. A citation helps, but police don't have to issue a ticket to prove fault in a Georgia car accident claim. Officers often arrive after the phone has been put away. Many crash reports never mention distraction at all, even when it caused the wreck.

An injury claim also uses a different standard than a traffic case. The injured person doesn't need proof beyond a reasonable doubt. They must show it's more likely than not that the other driver was negligent. That preponderance of the evidence standard leaves room to prove distraction through circumstantial evidence.

Evidence That Can Prove a Driver Was Distracted

Most distracted driving cases are built from several pieces of evidence that line up with each other. A phone log on its own may not prove much. Pair a text sent seconds before impact with no braking and a witness who saw the driver looking down, and the story becomes clear.

Evidence	What It Can Show	How It's Usually Obtained
Cell Phone Carrier Records	Times of calls, texts, and data sessions near the moment of the crash	Subpoena or discovery request once a claim or lawsuit is underway
Forensic Phone Examination	App activity, typing, and screen use down to the second	Consent or a court order allowing a qualified examiner to review the device
Event Data Recorder	Speed, braking, and steering in the seconds before impact	Download from the vehicle before it's repaired, sold, or scrapped
Vehicle Infotainment System	Calls and texts handled through the car's Bluetooth connection	Forensic download from the vehicle's system
Video Footage	Dashcam, traffic camera, or business surveillance showing the driver	Preservation requests sent quickly, before footage is recorded over
Witness Statements	A driver looking down, swerving, or holding a phone	Interviews with other drivers, passengers, and bystanders

How Phone Records Work in a Georgia Car Accident Claim

Carrier records can show when a phone was used, but they usually won't show what a driver wrote. Under the federal Stored Communications Act, 18 U.S.C. § 2702, phone companies generally can't hand message content to private parties. Logs showing when calls, texts, and data sessions happened are a different matter.

Timing is what matters most. Lawyers compare those logs with the crash time from the 911 call, the police report, and event data recorder information. A text sent seconds before impact can be powerful proof. It's even stronger when the vehicle data shows no braking.

Phone evidence is also sensitive, and courts may limit how far a request can reach. A request tied to a narrow window around the crash is more likely to hold up than one seeking months of records. Similar issues come up with digital evidence and phone activity in wrongful death cases.

Why Witnesses and Video Still Matter

Records show when a phone was used, while people and cameras show how a driver behaved. Witnesses in a Georgia car accident claim may have seen the driver's head down or a phone held up near the wheel. Others may have noticed the car drifting across the lane before impact.

Video can be even stronger. More drivers now use dashcams that capture crash evidence. Businesses near busy intersections often have cameras pointed at the road too. Many of those systems record over old footage within days, so finding them quickly can decide whether that proof survives.

Preserving the Evidence Before It's Gone

Distracted driving evidence doesn't wait for an insurance claim to be processed. Vehicles get repaired, phones get replaced, and video gets overwritten. A lawyer can send preservation letters to the other driver and the insurer. Letters can also go to any business with relevant footage or data.

Georgia law can penalize a party that destroys evidence it should have kept. When spoliation of evidence after a Georgia car accident happens, a court may tell the jury to assume the missing evidence was harmful. Early letters help make clear that the duty to preserve has started.

How These Pieces Can Come Together

Take the case of a Roswell teacher stopped at a red light on Holcomb Bridge Road. An SUV slams into her car from behind. The other driver tells police he was watching the light and his brakes didn't catch. No ticket is written for distracted driving. His insurer offers to pay for her car repairs and little else.

Her lawyer could request the vehicle's event data and the driver's phone records for the minutes around the crash. Suppose the records show a text sent eight seconds before impact and no braking until the last second. Then the story changes. A nearby store camera showing the driver looking down would leave little room for the insurer's version.

Don't Let the Proof Slip Away

Gary's message to drivers is direct. "That text you want to send to your friends or that text you want to read, that can wait, especially if it could cost you or someone else you love their life," he said. When another driver ignores that advice and hurts someone, proving it takes fast, careful work.

“If you have been hurt because of a distracted driver, don’t wait,” Gary said. Our legal team can move quickly to preserve phone records, vehicle data, and video before they’re lost. Contact us today for a free consultation. With our No Fee Guarantee, you won’t pay anything unless we win.