

Information on Georgia's Speeding Laws and Possible Penalties

Speeding:

- Georgia considers all traffic violations (regardless of severity) as misdemeanors. (infractions do not exist, at least when it comes to traffic offenses. Misdemeanors are considered more serious than an infraction but less serious than a felony).
- Drivers can be charged with reckless driving in addition to speeding (this ultimately depends on the situation and is initially left to the officer's discretion).
- Because all traffic violations are treated as criminal offenses or misdemeanor crimes (these two terms appear to be interchangeable), the punishment can result in up to 12 months in jail and, at most, a \$1000 fine.
- Traffic tickets of all kinds will also be handled as criminal matters.

Maximum Driving Speeds Are Posted At:

- 20 mph in school zones (unless specified)
- 30 mph in urban or residential districts
- 35 mph on unpaved country roads
- 65 mph on an urban interstate or multi-lane divided highway
- 70 mph on a rural interstate highway (this accounts for any interstate highway that is outside an urbanized area of 50000 or more population)
- 55 mph in all other areas (unless specified)

Here Are the Two Basic Categories of Speeding Offenses:

- Too Fast For Conditions
 - Speeding in Violation of Minimum or Maximum Limits
1. Too Fast For Conditions
 - O.C.G.A. § 40-6-180 declares that “no person shall drive at a speed greater than is reasonable under the conditions and having regard for the actual and potential hazards then existing” (Black, 2017).
 - Essentially, no driver should exceed a safe speed considering the present and potential hazards.
 - For example, certain road or weather conditions may require one to slow down their speed. Failure to do so or adjust speed accordingly can result in a charge.
 - For the charge to be valid, however, the officer must identify sufficient criteria to meet constitutional requirements (the state is basically required to note the specific conditions that caused the need for a reduced speed in addition to an estimate of the vehicle's speed).

- Some officers might decide to charge a driver with “too fast for conditions” rather than a speeding offense because the former is not reported to impact a Georgia licensee with points.
2. Speeding Below Maximum Limits
- Under O.C.G.A. § 40-6-184, there are three ways to charge a driver for driving too slowly.
 - Impending Traffic Flow
 - A driver is not allowed to drive excessively slow to the point where it disrupts normal traffic movement unless it is necessary for safety.
 - Driving Below the Posted Speed on a Minimum Limits Sign
 - When minimum limits are clearly posted, and a driver still drives below the stated limit, then it is considered an offense because it could potentially put others in danger. However, if the driver is driving under the set limit due to extreme weather situations, it is possible for their case to be justified.
 - Violating the “Slow Poke” Law
 - The following rule applies to roads, streets, and highways that have two or more lanes traveling in the same direction.
 - If a driver is driving on one of these roads and is in the passing lane (often considered as the most left-hand lane) but deliberately blocks other drivers from overtaking them from the rear at a higher speed, it is considered an offense.
 - This law applies even if the driver is driving at the speed limit and the overtaking driver is speeding.
 - However, certain drivers may be exempt from the left lane charge if they have a reasonable explanation (i.e., exit, tolls, weather, hazards, or construction) for driving at a reduced speed.
3. Speeding Above Maximum Limits
- According to O.C.G.A. § 40-6-181, no person is allowed to operate a vehicle at a speed higher than the maximum limit, and violation will result in punishment.

If a Driver Is Pulled Over for Speeding, Here Is What Could Happen:

- The driver could be issued a speeding ticket (or a citation) and will likely have to pay a steep fine
 - The driver must appear in court unless they pay the fine before their court date or if their citation does not require a mandatory court appearance (accepting the fine or penalty means pleading guilty to the citation).
 - Probation could be issued.

- Accumulated points (earned within a particular time frame) could result in suspending one's license or driving privileges.
- Car insurance premiums could drastically increase.
- The attending officer could arrest the driver on-site, leading to a faster entry into the criminal justice system.
(again, it largely depends on the situation and especially on the officer's discretion)

If a Driver Receives a Speeding Ticket, the Fines Are As Follows:

- Exceeding the speed limit by more than 5 mph but not more than 10 mph = \$25
- Exceeding the speed limit by more than 10 mph but not more than 14 mph = \$100
- Exceeding the speed limit by more than 14 but less than 19 mph = \$125
- Exceeding the speed limit by at least 19 mph but less than 24 mph = \$150
- Exceeding the speed limit by at least 24 mph but less than 34 mph = \$500
- As of 2010, Georgia has been classified as a super speeder state. This means that if a driver is caught speeding at 75 mph or more on a two-lane road or at 85 mph or above on any road or highway, they will have to pay an additional fine of \$200.

How A Driver Might Accumulate Points:

- 15- 18 mph over the speed limit = 2 points
- 19-23 mph over the speed limit = 3 points
- 24-33 mph over the speed limit = 4 points
- 34 + mph over the speed limit = 6 points
- Reckless driving = 4 points
- Failure to follow a traffic control device or officer = 3 points
- Passing a school bus unlawfully = 6 points
- Passing on a hill or curve = 4 points
- Possession of an open container of alcohol while driving = 2 points
- All other moving violations = 3 points
- A driver with 15 points in a 24-month period will have their license suspended or revoked.
- Younger drivers will have their licenses suspended or revoked at 4 points in a 12-month period.

When Disputing a Traffic Ticket, a Driver Could Be Assigned to These Georgia Courts:

- Superior Court (Jarzmick Law, 2023)
 - Located in each county.
 - Holds jurisdiction over both misdemeanor and felony criminal cases, as well as most civil cases.
- State Court
 - Located in more populated counties

- Oversees misdemeanor criminal cases, county ordinances, and particular civil cases.
- Municipal Court (Jarzmick Law, 2023)
 - Located in municipalities or cities.
 - Manages traffic offenses, some misdemeanor offenses, and city ordinance violations.
 - If a driver receives a ticket within city limits from an officer of the city they were pulled over in or by a Georgia State Trooper, the driver will need to have the ticket resolved in that city's municipal court.
- Probate Court or Recorders Court (Georgia Court Records, 2023)
 - Located in most counties.
 - Has jurisdiction over moving and nonmoving traffic offenses, except for felony offenses.
 - Can adjudicate cases that involve violations of the county's ordinances.
 - The jurisdiction of any Probate or Recorder's Court is limited to the boundaries of the respective county.
 - In the event of an appeal, any affected party may appeal the court's decision to the Georgia Superior Court.
 - In some cases, the traffic division of the State Court may directly receive county cases, depending on the county in which the violation occurred.

It is important to mention that Magistrate Courts and Juvenile Courts are also located in Georgia. Magistrate Courts, however, are generally not involved in traffic violations unless a warrant or warrants have been issued (Magistrate Court of Pike County, 2023). Instead, they typically oversee cases involving small civil claims of \$15000 or less. Juvenile Courts, on the other hand, have jurisdiction over all cases involving individuals under the age of 17, including traffic cases. Georgia also has two appellate-level courts, namely, the Supreme Court and the Court of Appeals, but these courts do not typically handle traffic ticket violations.

Traffic citations (or tickets), as noted, are classified as criminal offenses under the laws of Georgia. If charged with a traffic citation, an individual is entitled to a trial before a jury of their peers. The defendant's case might begin in a lower-level court, but if they request a jury trial, the case will be transferred to the State or Superior Court of the county where the citation was issued - it is reported that State and Superior Courts are the only courts that will hold jury trials.

As other Georgia lawyers have echoed, Criminal Defense Attorney Kyle H. Jarzmik explains that while jury trials for traffic citations are infrequent occurrences, it can occasionally be a strategic move to transfer the case to a State or Superior Court because the defendant may potentially be able to secure a more favorable outcome or delay the disposition of their case (Jarzmik Law, 2023).

What Does Reckless Driving Mean in the State of Georgia?

- Reckless driving is declared by Georgia law as driving with a “reckless disregard of property or other people” (Georgia Criminal Defense Lawyers, 2023).
- According to Georgia Criminal Defense Lawyers, the "reckless driving" standard is relatively ambiguous, which means that any driver can be accused of reckless driving based on the “loose opinions” of the police officer who pulls them over (Georgia Criminal Defense Lawyers, 2023).
- The definition of “reckless regard” under Georgia statutes is not specific, which leaves the determination (in terms of speed and conditions) up to the arresting officer and the judge at trial.
- The Georgia Criminal Defense Lawyers team considers how the subjective standard can result in a reckless driving accusation but emphasizes that it also allows for an argument in court that the officer was “mistaken or slightly overzealous with the charge” (Georgia Criminal Defense Lawyers, 2023).

What Happens if the Driver is Arrested? (A Very Brief Overview)

1. Arrest Procedure

- The driver will be handcuffed as the officer reads them the Miranda Warning.
- The driver will be searched for any weapons or contraband.
- Any items found on the driver will be confiscated and placed in a bag that will be submitted to the booking officer until the driver is released.
- The police will then transfer the driver to the appropriate facility, which, in this specific case, is usually the police department for booking.
- The driver’s vehicle might be towed to an impound yard or will be picked up by an individual of the driver’s preference.

2. Jail Booking

- Upon arriving at the jail, the arresting officer will take the driver to the booking area - they may be immediately booked or placed in a holding cell, depending on wait times.
- The driver’s personal and identification information will be added to the facility’s online database, along with their fingerprints and mugshot photos.

3. After the Booking Process

- The driver (now the defendant) will be granted one phone call of their choosing (they might call a family member, friend, or lawyer who can contact a bail bondsman).
- The defendant is then placed in a jail cell and will remain in custody until they are able to post bail or a judge orders their release.

4. Getting Out of Jail After an Arrest

- The amount of time it takes to be released from jail after an arrest varies depending on the charges. However, according to Grisham, Poole & Carlile, PC, there are four ways in which one can be released from jail following an arrest.
 - The defendant or an individual acting on their behalf is able to post cash for the posted bond amount.
 - The defendant successfully leverages their real estate as collateral with the court.
 - The defendant is able to procure the services of a local bail bond company.
 - The defendant is released by the judge on their own recognizance (which does not require any bond but the promise that future court proceedings will be attended).

5. Scheduling a Bond Hearing

- The defendant will make their first initial appearance in magistrate court, also known as a bond hearing.
- During this hearing, a judge will decide if the defendant can be released from jail and will formalize the requirements for their release.
- Specifically, the judge will determine the amount of bail the defendant must pay to be released until their trial.
- If an arrest has occurred without a warrant, the initial appearance is often scheduled within 48 hours, while for arrests with a warrant, it is usually within 72 hours.
- Bail amounts may be automatically set for common or lesser crimes (in such cases, the defendant will be informed of the bond amount during the booking process).
- However, at any point, the judge can deny the bail.
- Sometimes, the judge will allow the defendant to be released if they post 10% of the bond.

6. If the Defendant is Formally Charged

- The arresting officer's report, evidence, and witness statements will be reviewed by the district attorney's office. Based on this review, a prosecutor will decide whether or not to file formal charges or drop the case altogether.
- If charges are filed, it is recommended that the defendant hire a defense lawyer. The lawyer can then contact the prosecutor to discuss the case and try to have the charges dismissed. If the prosecutor persists, the defense lawyer may still be able to negotiate reduced charges to avoid a trial by jury (also known as plea bargaining during pretrial).
- Grisham, Poole & Carlile, PC, also explain that if the defendant's lawyer feels that the prosecutor is being unreasonable and has a weak case, the defense lawyer might recommend fighting the charges in court if they are confident they can win the case.

In Georgia, the legal process for an arrest and court case involving speeding or reckless driving is quite extensive and further includes a preliminary hearing, indictment, arraignment, pre-trial

motions, trial or plea, sentencing, and appeal. However, a majority of lawyers in Georgia have noted that individuals accused of such offenses generally do not face severe penalties. Instead, they are more likely to be fined, sentenced to probation, or have their license suspended. For example, criminal, DUI, and traffic defense lawyer Sean A. Black acknowledges that speeding in Georgia is considered a misdemeanor. He points out that the offense generally carries a punishment ranging from 12 months of incarceration and a \$1,000 fine. Still, he clarifies that “most court dispositions of speeding offenses involve no jail time and a fine lower than the maximum amount mentioned” (Black, 2017).

Obstruction of a Law Enforcement Officer (Hindering a Law Enforcement Officer)

- Misdemeanor Obstruction (O.C.G.A. §16-10-24(a))
 - The defendant is deemed to have “knowingly or willfully obstruct[ed] or hinder[ed] a law enforcement officer in the lawful discharge of [their] official duties” (Lawson & Berry, 2023).
 - A misdemeanor conviction would carry a maximum fine of up to \$1000 and/or a prison sentence of up to 12 months, in addition to other penalties authorized by Georgia’s misdemeanor sentencing laws.
 - Potential added penalties authorized by Georgia’s misdemeanor sentencing laws.
- Felony Obstruction (O.C.G.A. §16-10-24(b))
 - The defendant is considered to have “knowingly and willfully resist[ed], obstruct[ed], or oppo[sed] any law enforcement officer, prison guard, correctional officer, community supervision officer, probation officer, or conservation officer in the lawful discharge of [their] official duties by offering or doing violence to the person” (Lawson & Berry, 2023).
 - First, the punishment for a felony would be imprisonment for a period ranging from one to five years.
 - Secondly, the offender would be required to pay a fine of at least \$300. Similar to the misdemeanor, other penalties could be imposed under the felony sentencing laws.
- Attorneys from Lawson & Berry have confirmed that an exception exists under Georgia law, which only permits obstruction if the law enforcement officer (at the time of the incident) is not lawfully discharging their duties. In other words, if the officer fails to appropriately execute their legal duties. Subsequently, they consider how a conviction for obstruction will not be supported by Georgia law in a case where resistance is offered (by the defendant) during an unlawful arrest (Lawson & Berry, 2023).