Hodgins & Kiber Explains SB 68 Impact on Rear-End Claims

August 20, 2026

ATLANTA, GA - August 20, 2026 -
Hodgins & Kiber, LLC, a Midtown Atlanta personal injury firm, has issued guidance on how Georgia Senate Bill 68, signed April 21, 2025, is reshaping the legal position of rear-end collision victims by expanding how insurance defense teams can distribute fault in apportionment.

Under Georgia law, a driver who strikes another vehicle from behind may be presumed negligent. That presumption is generally rooted in O.C.G.A. § 40-6-49, which requires drivers to maintain a following distance that is reasonable and prudent for prevailing conditions. Georgia courts have interpreted the statute to mean that a rear-end collision can create a rebuttable presumption of negligence against the following driver, a principle discussed in cases such as Malloy v. Malloy Construction and subsequent appellate decisions applying following-distance standards.

That presumption is rebuttable rather than absolute. Georgia's modified comparative fault standard bars recovery for a victim found 50 percent or more at fault. In rear-end claims, insurance defense teams may use

the rebuttable nature of the O.C.G.A. § 40-6-49 presumption to argue that the lead driver stopped suddenly without warning, engaged in brake-checking behavior, operated with non-functioning brake lights, or created a traffic situation that made the collision unavoidable, seeking to push the victim's fault percentage toward the 50 percent bar.

Senate Bill 68, enacted in 2025, revised O.C.G.A. § 51-12-33 to broaden how fault may be apportioned. According to the text of the legislation, the changes address the assessment of fault among parties and, in defined circumstances, non-parties. Legal commentators reviewing the bill have noted that defense teams may attempt to attribute portions of fault to factors such as road surface conditions, traffic signal timing, or third-party vehicle behavior. The precise scope and applicability of these provisions remain subject to interpretation by Georgia courts as cases proceed under the amended statute.

Evidence relevant to the presumption in a rear-end crash can be time-sensitive. Dashcam footage, police report fault notations, traffic camera recordings, and brake light inspection documentation may become difficult to recover once deleted or overwritten, which is why formal preservation demands are often issued early in the claims process. The firm noted that the timing for preserving specific categories of evidence varies by source and retention practice. The firm has stated that an Atlanta Car Accident Lawyer can assist with evidence preservation and apportionment questions during the early stages of a claim.

"The O.C.G.A. § 40-6-49 presumption can be a genuine advantage because it shifts the burden toward the rear driver to explain why the crash was not their fault," said Troy Kiber, Attorney at Hodgins & Kiber. "What the SB 68 apportionment revision may give the defense is an additional avenue to construct that explanation by pointing to road conditions, another vehicle, or a sudden stop. Preserving dashcam footage, the police report, and brake light documentation early is one way the presumption is protected as the apportionment framework is tested in court."

Rear-end collisions are frequently cited among the more common crash configurations reported on Georgia roads. According to Georgia Department of Transportation crash data, following too closely and driver inattention are among the contributing factors documented in rear-end crashes statewide. Attorneys David Hodgins and Troy Kiber, working through the practice at the Hodgins and Kiber Atlanta Car Accident Lawyer team, represent rear-end crash victims, distracted driving victims, and other injury clients on a contingency fee basis.

Hodgins & Kiber, LLC is a personal injury law firm based in Midtown Atlanta, representing car accident victims, rear-end collision survivors, motorcycle riders, and other injury clients throughout Metro Atlanta and Georgia. Recognized by Expertise.com as one of Atlanta's best personal injury law firms for 2025 and holding

BBB Accredited Business status, the firm handles car accidents, truck accidents, motorcycle accidents, rideshare collisions, and pedestrian accidents on a contingency fee basis.

###

For more information about Hodgins & Kiber, LLC, contact the company here:Hodgins & Kiber, LLCHodgins & Kiber, LLC404) 975-1467info@attorneyatl.com1720 Peachtree Street NW Suite 575Atlanta, Georgia 30309

Hodgins & Kiber, LLC

Atlanta personal injury attorneys David Hodgins and Troy Kiber fight for accident victims across metro Atlanta. We handle car, truck, and motorcycle accidents with integrity and aggression?maximizing your recovery while you focus on healing.

Website: https://www.attorneyatl.com/

Email: info@attorneyatl.com

Phone: 404) 975-1467