

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
BOATING WHILE INTOXICATED) Administrative Order
A.R.S. § 5-395.03, TEST REFUSAL,) No. 2003- 99
A CIVIL OFFENSE)
_____)

Pursuant to Laws 2003, Ch. 207 § 1, A.R.S. § 5-395.03 was amended to change the classification of the penalty for failure to submit to alcohol or drug testing after being cited for boating while intoxicated from a petty offense to a civil fine of \$750. The change in statute is effective September 18, 2003 and will require that courts modify how they process a refusal under this section. Prior to this amendment, the Rules of Procedure in Traffic Cases and Boating Cases applied to such cases. In the absence of a criminal penalty, these rules no longer provide appropriate procedures for adjudicating these types of cases. Accordingly, this order adopts a temporary solution until suitable amendments to procedural rules can be prepared.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the Rules of Procedure in Civil Traffic Violation Cases shall apply to violations of A.R.S. §5-395.03, except that dispositions shall not be reported to the Department of Transportation nor result in suspension of driving privileges.

IT IS FURTHER ORDERED that cases charging a violation of A.R.S. §5-395.03 shall be commenced within 60 days of the alleged violation or within 180 days if the alleged violation is under investigation in conjunction with an accident.

IT IS FURTHER ORDERED that the civil penalty imposed by A.R.S. §5-395.03(C) is subject to applicable penalty assessments and surcharges.

Dated this 6th day of November, 2003.

CHARLES E. JONES
Chief Justice