

## SUBSTANTIVE POLICY STATEMENT

This Substantive Policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

### ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY NOTICE OF AGENCY SUBSTANTIVE POLICY STATEMENT

1. **Subject of the substantive policy statement and the substantive policy statement number by which the policy statement is referenced:**

Document Title: "Title Only" Sale by Dealers

Identification number: None

2. **Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:**

Date of Document: May 2008

Effective date of Policy: May 2008

3. **Summary of the contents of the substantive policy statement:**

This substantive policy statement informs the general public of ADEQ's current approach to, or opinion of, guidance on requirements for "Title Only" sales to retail purchasers, referencing A.R.S. §28-2053

4. **A statement as to whether the substantive policy statement is a new statement or a revision:**

New  Revised  Existing

5. **The name, address, and telephone number of the person to whom questions and comments about the substantive policy statement may be directed:**

Name: Air Quality VEI Inspection & Compliance Unit Manager

Address: 600 North 40<sup>th</sup> Street, Phoenix, AZ 85008

Telephone: 602-207-7011

6. **Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:**

Copies of this policy document are available at the cost of \$.25/page from ADEQ's Information Desk, 1110 W. Washington, Phoenix, AZ 85007.

AQS P45



**Date:** May 7, 2008  
**To:** All Phoenix and Tucson VEI Staff  
**From:** Adrion Osborne, Phoenix ICU Manager  
**Subject:** "Title Only" Sales by Dealers

Dan Williams and Ken Norinberg, of Motor Vehicle Dealer Investigations, met with Dan Grubbe and Don Bauer on June 28, 1995, to discuss the matter of dealer sale of vehicles without registration. This is commonly referred to as "Title Only" sales.

We have, in the past, stressed that a dealer could not sell a vehicle to a retail purchaser which was not emissions tested and passed. MVD maintains that there must be a means for the dealer to dispose of those vehicles which are not intended for highway use. Such vehicles as those which are intended to be "parted out", or those which have a blown engine but a good body are in this category.

A.R.S. §28-2053 and, §28-4412 provide the means to address the issue. Pursuant to these Statutes, a vehicle may be sold "Title Only" provided that the applicant certifies that the vehicle has been acquired for purposes other than highway use. MVD will issue a dealer announcement specifying that the contract must clearly state the vehicle is being sold for "Other Than Highway Use". Failure to comply with this provision would place the dealer in violation of the Statute and subject to the provisions of A.R.S. §49-542.

A purchaser who obtains a vehicle under these conditions is not afforded the consumer protection of A.R.S. §49-542. The vehicle may not be operated on the highway until such time as it is properly registered and licensed. The vehicle may not be driven from the dealer's lot.

When reviewing a citizen complaint, attention must be paid to the transaction documents. Verify the following:

- A. Was the transaction identified "Title Only"?
- B. Was the vehicle towed from the lot?
- C. Does the contract state "For Other Than Highway Use"?

If these criteria were met, the sale was acceptable and the complainant has no case. If, however, the vehicle was driven from the dealership, the dealer may be found in violation and subject to the provisions of A.R.S. §49-542.D. Keep in mind that the requirement to clearly state the disclaimer on the contract has not yet been disseminated to the dealers by MVD. Once it has been announced, I will update everyone to that fact.



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**28-2053. Certificate of title without registration**

The department may issue a vehicle certificate of title without registration for any of the following reasons:

1. The applicant for a certificate of title is a nonresident whose vehicle is not subject to vehicle registration in this state.
2. The owner will register the vehicle under article 7 or 8 of this chapter.
3. The applicant certifies that the vehicle was acquired for purposes other than highway use.
4. The vehicle was acquired by operation of law.
5. The vehicle is an off-road recreational motor vehicle required to be titled pursuant to section 28-2061.



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**28-4412. Guaranty disclosure; used motor vehicles; definition**

A. Before the consummation of the sale of a used motor vehicle, a motor vehicle dealer shall:

1. Provide each purchaser with a written statement that:

(a) Indicates whether or not an express warranty or guaranty is associated with the used motor vehicle.

(b) Is distinguished from the body of the sales agreement through the use of either bold-faced type or bold-faced type of a color other than that used in the body of the agreement.

(c) States "as is -- not expressly warranted or guaranteed", if the used motor vehicle to be sold is not expressly warranted or guaranteed.

(d) Explicitly states the nature and extent of the express warranty or guaranty, if the used motor vehicle to be sold is expressly warranted or guaranteed.

(e) States "as is -- not guaranteed to pass vehicle emissions inspection. Vehicle not eligible for certificate of waiver and must be repaired to meet emissions standards", if the used motor vehicle is a disabled vehicle that is offered for sale at a wholesale public auction with an auctioneer who is a licensed used motor vehicle dealer and if the vehicle does not comply with the requirements prescribed in section 49-542.

2. Direct the purchaser's attention to the written statement.

B. This section does not negate any implied warranties otherwise applicable to the sale of a used motor vehicle, including the implied warranty of merchantability described in section 44-1267.

C. Before the seller attempts to sell a motor vehicle the seller shall possess the title to the motor vehicle and the title shall be in the seller's name.

D. For the purposes of this section, "disabled vehicle" means a motor vehicle that cannot operate on its own motive power.