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**SENATE BILL 5848**

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**State of Washington****53rd Legislature****1993 Regular Session****By** Senators M. Rasmussen, Loveland and Barr

Read first time 02/17/93. Referred to Committee on Agriculture.

1       AN ACT Relating to the consignment rights of orchard crops; and  
2 amending RCW 62A.2-326.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4       **Sec. 1.** RCW 62A.2-326 and 1965 ex.s. c 157 s 2-326 are each  
5 amended to read as follows:

6           (1) Unless otherwise agreed, if delivered goods may be returned by  
7 the buyer even though they conform to the contract, the transaction is

8           (a) a "sale on approval" if the goods are delivered primarily for  
9 use, and

10          (b) a "sale or return" if the goods are delivered primarily for  
11 resale.

12          (2) Except as provided in subsection (3), goods held on approval  
13 are not subject to the claims of the buyer's creditors until  
14 acceptance; goods held on sale or return are subject to such claims  
15 while in the buyer's possession.

16          (3) Where goods are delivered to a person for sale and such person  
17 maintains a place of business at which he deals in goods of the kind  
18 involved, under a name other than the name of the person making  
19 delivery, then with respect to claims of creditors of the person

1 conducting the business the goods are deemed to be on sale or return.  
2 The provisions of this subsection are applicable even though an  
3 agreement purports to reserve title to the person making delivery until  
4 payment or resale or uses such words as "on consignment" or "on  
5 memorandum". However, this subsection is not applicable if the person  
6 making delivery

7 (a) complies with an applicable law providing for a consignor's  
8 interest or the like to be evidenced by a sign, or

9 (b) establishes that the person conducting the business is  
10 generally known by his creditors to be substantially engaged in selling  
11 the goods of others, ((or))

12 (c) complies with the filing provisions of the Article on Secured  
13 Transactions (Article 9), or

14 (d) is a producer of an orchard crop as defined in RCW 60.11.010 or  
15 a person hired by the producer of the orchard crop to transport the  
16 orchard crop and the goods delivered are orchard crops.

17 (4) Any "or return" term of a contract for sale is to be treated as  
18 a separate contract for sale within the statute of frauds section of  
19 this Article (RCW 62A.2-201) and as contradicting the sale aspect of  
20 the contract within the provisions of this Article on parol or  
21 extrinsic evidence (RCW 62A.2-202).

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