



## 2015 ASSEMBLY BILL 43

February 17, 2015 - Introduced by Representatives JACQUE, ROHRKASTE, KREMER, BERCEAU, GENRICH, MURPHY, THIESFELDT and TITTL, cosponsored by Senators ROTH, WANGGAARD and MARKLEIN. Referred to Committee on Judiciary.

1     **AN ACT** *to amend* 968.13 (1) (b), 968.13 (1) (c) and 968.23 of the statutes;  
2           **relating to:** obtaining a search warrant for certain civil violations.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a court may authorize a search warrant that allows a law enforcement officer to search and seize anything that is the fruit of, or has been used in, the commission of a crime or that may constitute evidence of a crime, if the court finds probable cause to believe that the search will yield evidence of the crime.

This bill allows a court, upon finding probable cause, to authorize a search warrant that allows a law enforcement officer to search and seize anything that is the fruit of, or has been used in, the commission of a crime or of a civil violation of the prohibitions against driving while having a prohibited alcohol concentration or while under the influence of an intoxicant, a controlled substance, a controlled substance analog, or any combination of an intoxicant, a controlled substance, and a controlled substance analog.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

3           **SECTION 1.** 968.13 (1) (b) of the statutes is amended to read:

**ASSEMBLY BILL 43**

1           968.13 (1) (b) Anything which is the fruit of or has been used in the commission  
2 of any crime or of a violation of s. 346.63 or a local ordinance in conformity therewith.

3           **SECTION 2.** 968.13 (1) (c) of the statutes is amended to read:

4           968.13 (1) (c) Anything other than documents which may constitute evidence  
5 of any crime or of a violation of s. 346.63 or a local ordinance in conformity therewith.

6           **SECTION 3.** 968.23 of the statutes is amended to read:

7           **968.23 Forms.** The following forms for use under this chapter are illustrative  
8 and not mandatory:

9           STATE OF WISCONSIN,

10          .... County.

11          AFFIDAVIT OR COMPLAINT.

12          In the .... court of the .... of ....

13          A. B., being duly sworn, says that on the .... day of ....., A. D., .... (year), in said  
14 county, in and upon certain premises in the (city, town or village) of .... in said county,  
15 occupied by .... and more particularly described as follows: (describe the premises)  
16 there are now located and concealed certain things, to wit: (describe the things to be  
17 searched for) (possessed for the purpose of evading or violating the laws of the state  
18 of Wisconsin and contrary to section .... of the Wisconsin statutes) (or, which things  
19 were stolen from their true owner, in violation of section .... of the Wisconsin statutes)  
20 (or, which things were used in the commission of (or may constitute evidence of) ~~a~~  
21 ~~crime~~ an offense to wit: (describe ~~crime~~ offense) committed in violation of section ....  
22 of the Wisconsin statutes).

23          The facts tending to establish the grounds for issuing a search warrant are as  
24 follows: (set forth evidentiary facts showing probable cause for issuance of warrant).

**ASSEMBLY BILL 43**

1           Wherefore, the said A. B. prays that a search warrant be issued to search such  
2 premises for the said property, and to bring the same, if found, and the person in  
3 whose possession the same is found, before the said court (or, before the .... court for  
4 .... County), to be dealt with according to law.

5           (Signed) A. B.

6           Subscribed and sworn to before me this .... day of ....., .... (year)

7           ....., Judge of the .... Court.

8           STATE OF WISCONSIN,

9           .... County.

10          SEARCH WARRANT.

11          In the .... court of the .... of ....

12          THE STATE OF WISCONSIN, To the sheriff or any constable or any peace  
13 officer of said county:

14          Whereas, A. B. has this day complained (in writing) to the said court upon oath  
15 that on the .... day of ....., A. D., .... (year), in said county, in and upon certain premises  
16 in the (city, town or village) of .... in said county, occupied by .... and more  
17 particularly described as follows: (describe the premises) there are now located and  
18 concealed certain things, to wit: (describe the things to be searched for) (possessed  
19 for the purpose of evading or violating the laws of the state of Wisconsin and contrary  
20 to section .... of the Wisconsin statutes) (or, which things were stolen from their true  
21 owner, in violation of section .... of the Wisconsin statutes) (or which things were used  
22 in the commission of (or, may constitute evidence of) ~~a crime~~ an offense, to wit:  
23 (describe ~~crime~~ offense) committed in violation of section .... of the Wisconsin  
24 statutes) and prayed that a search warrant be issued to search said premises for said  
25 property.

