

# SB305

Measure Title: RELATING TO MEDICAL MARIJUANA DISPENSARIES.

Report Title: Medical Marijuana Dispensary System; Dispensaries; Production Centers; Video Monitoring; Surveillance Recording Retention

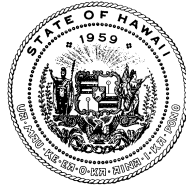
Description: Specifies that video monitoring and recording of medical marijuana dispensary and production center premises shall be retained for a period of forty-five days.

Companion:

Package: None

Current Referral: CPH, JDL

Introducer(s): BAKER, Nishihara



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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**Testimony in OPPOSITION to SB305  
RELATING TO MEDICAL MARIJUANA DISPENSARIES**

SENATOR ROSALYN H. BAKER, CHAIR  
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH  
Hearing Date: Wednesday, February 1, 2017 Room Number: 229

1 **Fiscal Implications:** Potential to add up to \$25,000 in expenditures to cover the added costs of  
2 increased neighbor island travel and Oahu mileage to inspect production centers and retail  
3 dispensary locations more frequently.

4 **Department Testimony:** The department OPPOSES the passage of new laws related to  
5 marijuana until the medical marijuana dispensaries open and the department has the chance to  
6 gauge the impact upon the State.

7 This bill proposes to amend Section 329D-7 HRS in order to overturn medical marijuana  
8 dispensary administrative rules to specify that the video monitoring and recording of the  
9 premises shall be retained for a period of 45 days. Currently, the statute is silent on the length of  
10 retention. The department has the ability to change this retention period in rules but does not  
11 wish for statutory changes at this time in order to ensure the state retains a robust regulatory  
12 system and until the department knows whether this will indeed be more costly to the dispensary  
13 licensees.

14 Thank you for the opportunity to testify on this bill.

15 **Offered Amendments:** None.

# HAWAII EDUCATIONAL ASSOCIATION FOR LICENSED THERAPEUTIC HEALTHCARE

To: Senator Rosalyn Baker, Chair Consumer Protection and Health  
Senator Clarence Nishihara, Vice-Chair Consumer Protection and  
Health  
Members of the Senate Consumer Protection and Health Committee

Fr: Blake Oshiro, Esq. on behalf of the HEALTH Assn.

Re: Testimony in **Support of Senate Bill (SB) 305**  
RELATING TO MEDICAL MARIJUANA DISPENSARIES.  
Specifies that video monitoring and recording of medical marijuana  
dispensary and production center premises shall be retained for a  
period of forty-five days.

Dear Chair Baker, Vice-Chair Nishihara, and Members of the Committee:

HEALTH is a recently formed trade association made up of the eight (8) licensed medical marijuana dispensaries under Haw. Rev. Stat. (HRS) Chapter 329D. HEALTH's members are all committed to ensuring the goals of patient safety, product safety and public safety. However, we **strongly support** SB 305 since the current administrative rules on the requirements for video storage are extremely large, and it is our understanding that 365 days is over and beyond the requirements of any other jurisdiction which more commonly are at 30-45 days.

Attached, is a chart that shows the current requirements in AZ, NV, OR, CO, AK, WA, NY, IL, and Hawaii.

The current 365-day requirement of stored video data, will not only likely affect the resolution quality of the video capable of being stored, more importantly, it will lead likely to significant infrastructure and administrative expenses increasing production costs and therefore, affecting patients' affordability.

Under the Department of Health's *Interim* Administrative Rules, Section 11-850-41(b): "[a] dispensary licensee shall retain for a minimum of one year all security recordings."

The rules spell out the requirements for such security recordings under Section 11-850-51, including:

- Professionally installation

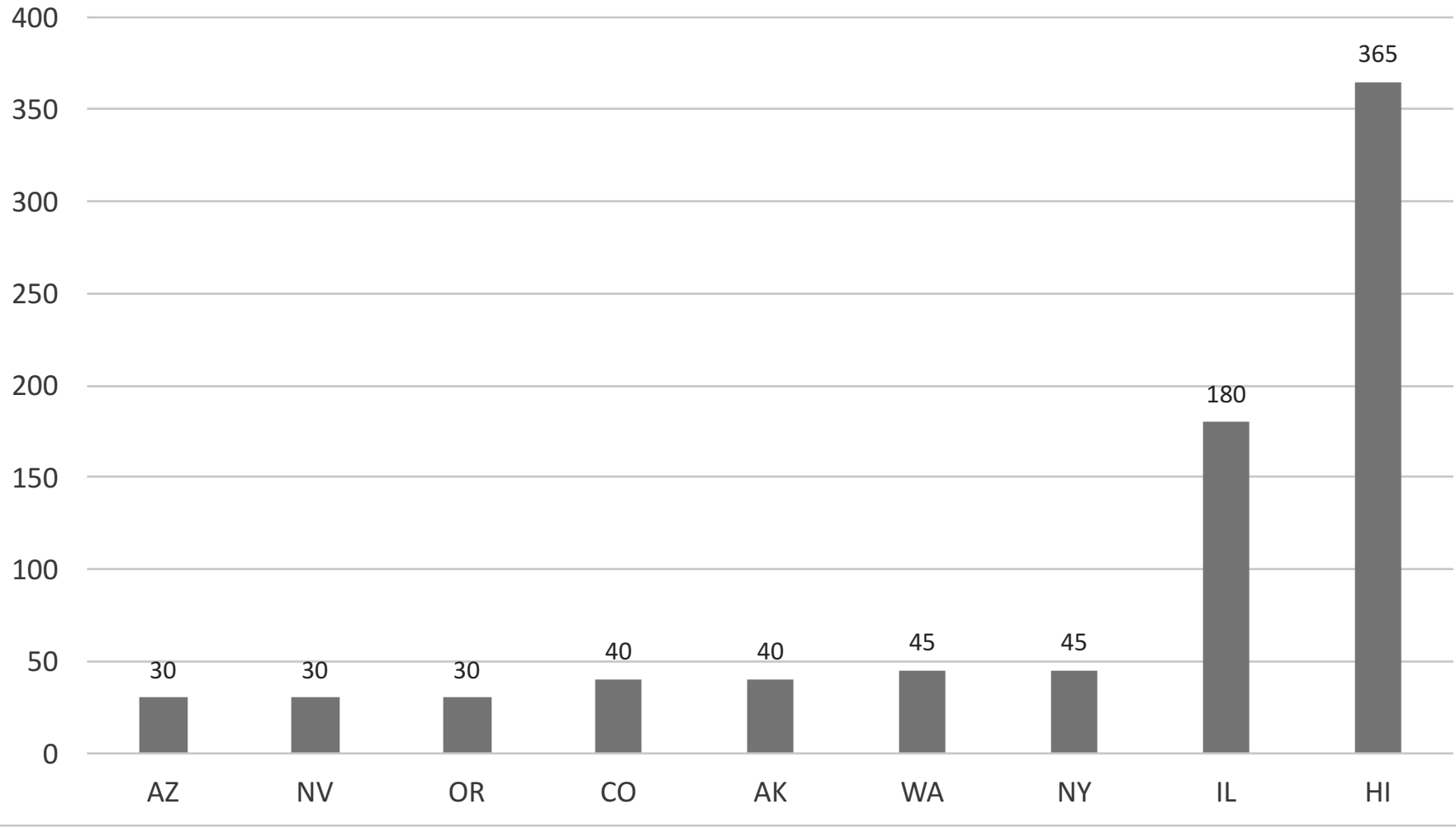
- 24-hour continuous video monitoring and recoding of all dispensary facilities
- back-up capability
- clearly displayed with time/date
- internet protocol compatible
- minimum resolution for a clear and certain identification of persons to include any area where products are produced, moved, stored, sold, packed/unpacked into containers for transport, surveillance storage areas, exists/entrances to indoor and outdoor locations
- secured in a lockbox, cabinet or closet to minimize access to tampering or theft

HEALTH recognizes and its members intend to conform to all of these requirements recognizing that these video surveillance requirements enhance and promote security and safety. However, the requirement to store **all of that data** for one year, creates an exorbitant infrastructure burden and a significant cost.

The required computerized tracking system in the law and rules will already ensure that marijuana and marijuana products are detailed and monitored from every seed to sale, or even possible disposal. Together with the video surveillance system referenced above, these safeguards will provide much needed security and safety at the dispensary facilities.

Therefore, we support changing the requirement for the duration of storage to 45 days since that mirrors that of other jurisdictions, and we are unaware of any issues or concerns arising out of this more common video storage duration requirement.

# MMD Days Video Storage Required



IL - 90 days onsite and 90 days off-site



mānoabotanicals

**ON THE FOLLOWING MEASURE:**

SB305, RELATING TO MEDICAL MARIJUANA DISPENSARIES

**BEFORE THE:**

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Wednesday, February 1 TIME: 9:00AM

LOCATION: Conference Room 229

TESTIFIER: Greg Gilmartin, Head of Security and Compliance  
Mānoa Botanicals LLC

POSITION: SUPPORT WITH COMMENTS

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Chair Baker, Vice Chair Nishihara, and Members of the Committee:

Mānoa Botanicals (Mānoa or MB) is a licensed medical marijuana dispensary in the City and County of Honolulu.

Mānoa submits the following testimony in **SUPPORT WITH COMMENTS**.

I am Manoa Botanicals' manager of security and compliance and am writing on behalf of the company. My previous experience of over 35 years in law enforcement, includes ten years as an enforcement agent with the Ohio Department of Liquor Control, and over 23 years as a special agent with the Federal Bureau of Investigation.

Included in my responsibilities at MB are to oversee the installation and the ultimate operation of the system used to collect security DVRs and utilized to monitor entire dispensary operations at all MB facilities. The surveillance videos collected and retained are an integral portion of the security and compliance of MB operations. As with any operation involving high value products and/or cash, the number and placement of cameras installed is critical to ensure security. Additionally, the retention of the DVRs collected are invaluable when review is required to identify deficiencies or other circumstances.



The current rules established require dispensaries to maintain DVRs for 365 days at all facilities. When all MB dispensary facilities are operational, it is anticipated the number of cameras required to meet rule requirements and offer the adequate coverage for security will approach 200. (A number I would prefer to see increased to enhance our security beyond minimum requirements.)

Considering the requirement to operate the surveillance system 24/7, and retain DVRs from all cameras operating, the amount of data storage required becomes feasibly prohibitive to the installation of an optimum number of cameras.

As the individual responsible for security at MB, I have lobbied for cameras exceeding the HDOH requirements. Even incorporating the use of less frames per second and lessening resolution, two separate professional security installation companies on Oahu have found it difficult to even estimate the cost of storing such a large amount of data. They can only reflect the cost will be “enormous.” This results in extreme difficulty for me to justify before those funding our business for an optimal security system. Manoa Botanicals will absolutely comply with all rules established for dispensaries to operate; however, the rule requiring retention for 365 days is effectively preventing MB exceeding the minimum requirements. The quality of security at MB is lessened due to the 365-day requirement.

During my extensive investigative experience, including numerous bank embezzlement and robbery investigations, I’ve encounter no circumstance requiring the recovery of DVRs more than 45 days old. Additionally, I can recall no circumstance wherein any investigator under my supervision as an FBI White Collar Crime supervisor has had their investigation enhanced by a DVR collected 45 days after the incident.



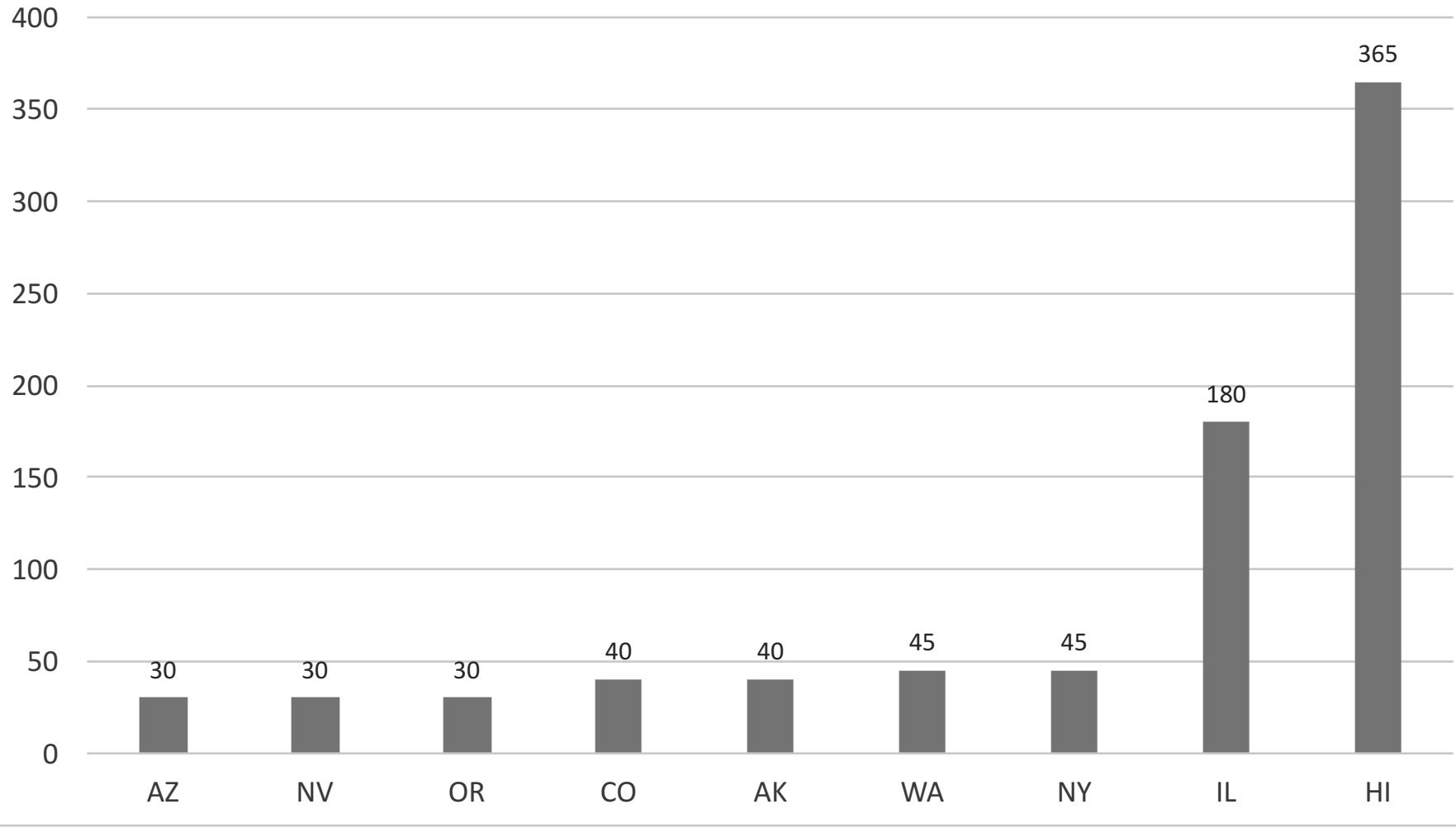
During my inquiries at various businesses utilizing DVRs, including banks, pharmacies, Las Vegas resort casinos, and Mainland state licensed marijuana dispensaries, all have indicated their DVR retentions range from one week to 60 days. Also, none of these entities have suggested their retention periods has negatively impacted security. They all have indicated, if a suspicious matter or an incident under review is approaching the date when the DVR may become unavailable, the data is simply separately saved beyond the retention period.

I do appreciate the spirit in which the 365-day rule was to establish Hawaii's Medical Marijuana Program among the most structured and detailed in the Nation. However, now that we are applying the rules, it is very apparent security systems will be enhanced if dispensary licensees can focus limited financial resources on the effective security technology enhancements, rather than on expensive data storage unlikely to be needed.

Also provided with this testimony is a graphic reflecting the DVR storage periods of other states with licensed marijuana programs. Thank you very much for the opportunity to provide testimony on this measure, I appreciate the opportunity to share our position with the Committee.



# MMD Days Video Storage Required



IL - 90 days onsite and 90 days off-site



TESTIMONY ON SENATE BILL 305  
RELATING TO MEDICAL MARIJUANA DISPENSARIES

by  
Keith Kamita  
Chief Compliance Officer  
Cure Oahu

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Senator Rosalyn H. Baker, Chair  
Senator Clarence K. Nishihara, Vice Chair

Wednesday, February 1, 2017, 09:00 AM  
State Capitol, Conference Room 229

Chair Baker, Vice Chair Nishihara and Members of the Committee:

Cure Oahu strongly supports Senate Bill 305 that amends Hawaii Revised Statutes **§329D-7 Medical marijuana dispensary rules**, by adding language to specify that video surveillance monitoring and recording data of the medical marijuana dispensary and production center premises shall be retained for a period of forty-five days. Presently §329D Hawaii Revised Statutes relating to Hawaii's Medical Marijuana Dispensary Program does not specifically address security video data storage retention requirements it defers to Department of Health (DOH) rules 11-850-41 requiring dispensary licensees to retain a minimum of one year of video surveillance recordings, this requirement is overly excessive and burdensome for dispensary licensees. Presently banks are retaining video surveillance data for only 30-90 days and pharmacies do not have any video surveillance retention requirements in statute. Below are other state video data retention requirements compared to Hawaii:

Hawaii	1 year (365 days)
Oregon	90 days
New York	90 days
Washington	45 days
Colorado	40 days
Alaska	40 days
Nevada	30 days
Guam	30 days
Arizona	30 days
Maine	14 days
Michigan (Lancing)	14 days
California (Palm springs)	240 hours (10 days) Note: CA retention limits differ by city 14-60 days
Delaware	no set video retention limit
Massachusetts	no video retention requirement just ability to take stills from 24/7 video

Due to the one-year video surveillance data retention requirement imposed by §11-850-41 HAR which depending on the number of cameras utilized at facilities could be as much 965 terabyte (TB) of data for 30 cameras utilizing a frame capture rate of 30 per second or 482 TB for a frame capture rate of 15 per second.

Presently commercial high quality video surveillance equipment on the market come with 24 to 32 TB of built in data storage capability. The storage limitation of most digital recording devices at the dispensaries and production center licensees will require licensees to have to decrease the amount of surveillance cameras, add additional external storage equipment or utilize a secure cloud storage service that is very expensive and sometimes not compatible with the proprietary video surveillance software making it unable to instantly recall the video surveillance data when required to do so by regulators at the dispensary or production center.

If a licensee is required to store one year of video surveillance data in compliance with 11-850-51 and 11-850-52 HAR on his/her high end digital surveillance recording equipment that is equipped with 32 TB of storage capacity and 30 cameras the licensee would have to drop the frame capture rate of the recorder to 1 frame per second to fit, all the data onto the digital video storage equipment's hard drive. The reduction in frame capture rate will compromise clarity and the amount of identifiable video frames that can be utilized by regulators or law enforcement to identify criminal or administrative violations and therefore defeat the purpose of having state of the art video monitoring equipment in the facilities.

The amendments being proposed by SB305 to set the video surveillance data retention at not more than 45 days will allow licensees to utilize a larger number of surveillance cameras, increase the digital video surveillance recorder's capture frame rates which will safeguard the public and the licensees.

Thank you for this opportunity to testify on this important bill. [www.cureoahu.org](http://www.cureoahu.org)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, January 26, 2017 12:56 PM  
**To:** CPH Testimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for SB305 on Feb 1, 2017 09:00AM\*

**SB305**

Submitted on: 1/26/2017

Testimony for CPH on Feb 1, 2017 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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