DOES CSHB 61(STA) VIOLATE ART. X, SEC. 1 OF THE STATE CONSTITUTION?

No. Art. X, sec. 1 states, "The purpose of this article is to provide for maximum local self-government with a minimum of local government units". Art. I, sec. 19 states "The individual right to keep and bear arms shall not be denied or infringed by the state or a political subdivision of the state."

CAN MUNICIPALITIES REGULATE FIREARMS WITHIN THEIR JURISDICTIONS?

Yes, but the authority is greatly limited. AS 29.35.145 gives primary authority to regulate firearms and knives to the state. However, municipalities may do the following:

1) Restrict the discharge of firearms within its jurisdiction if there is a reasonable likelihood that people, domestic animals, or property will be jeopardized. However, this provision expressly prohibits municipalities from adopting ordinances under the chapter that abridge the rights of an individual to keep and bear arms under Art. I, sec. 19
2) Restrict the areas where firearms may be sold. Again, however, this is also limited. AS 29.35.145 (b)(3) expressly states that a business selling firearms or knives may not be treated more restrictively than other forms of business.
3) Prohibit the possession of firearms and knives in the restricted access area of municipal government buildings.

GIVEN THE PROVISIONS OF AS 29.35.145, WHY IS THE BILL NECESSARY?

The new language included in CSHB 61(STA) applies to a different section of statute. It is an extension of AS 29.35.145 to expressly provide that emergency declarations cannot be used as justification for closures.

HAS THERE EVER BEEN A CIRCUMSTANCE OF GUN STORE/SHOOTING RANGE CLOSURES UNDER AN EMERGENCY DECLARATION IN ALASKA?

Yes. On April 3rd, 2020 former MOA Mayor Ethan Berkowitz issued such an order.

DOES THIS BILL EXPAND WHERE FIREARMS MAY BE CARRIED WITHIN THE STATE?

No. The bill only stipulates that gun stores and shooting ranges may not be singled out for closure during an emergency declaration.

WAS THE LANGUAGE REGARDING RECOVERING THREE TIMES ATTORNEY'S FEES INCLUDED AT THE EXPRESS DIRECTION OF THE BILL SPONSOR?

No, this language was carried over from the Missouri bill that CSHB 61(STA) was based on. Also, as correctly identified by the Committee Chair, this provision is not present anywhere else in Alaska Statute. The sponsor does not oppose the removal of this language.

IS THERE CONTROLLING CASE LAW REGARDING CLOSURES OF GUN SHOPS AND SHOOTING RANGES?

Yes. McDougall v. County of Ventura was filed in January 2022 in response to arbitrary closures of gun stores and shooting ranges during the COVID pandemic.

Among other points, the three-judge panel of the 9th Circuit Court of Appeals said:

"Both this court and the Supreme Court have repeatedly held that the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury. Because First Amendment principles guide the analysis of the burden's severity in the Second Amendment context, there is no reason that the loss of Second Amendment freedoms even for 'minimal periods of time' would not likewise constitute irreparable injury.

This is especially true in the Second Amendment context, where the need for armed protection in self-defense can arise at a moments' notice and without warning. People don't plan to be robbed in their homes in the dead of night or to be assaulted while walking through city streets. It is in these unexpected and sudden moments of attack that the Second Amendments' rights to keep and bear arms becomes most acute."

Later in the same opinion it was also noted:

"Judge Kleinfeld wished to expand upon the absence of justification in the record for what the County did. There was no evidence whatsoever in the record to show why the particular inclusions and exceptions relating to firearms, ammunition, and shooting ranges reasonably fit the purpose of slowing the spread of the COVID-19 virus.

The County has simply neglected to make a record that could justify its actions. Neither pandemic nor even war wipes away the Constitution."