



Circulation Of Food And Beverage Products Without Labels In The Study Of Criminal Law

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ABSTRACT

The large number of food and beverage products in circulation do not meet the requirements and standards set forth in the law can be a problem and endanger human safety. Therefore, the existence of distribution permits and supervision of food and beverage products is very important to maintain food and beverage safety. The observation method used is normative juridical law observation, which is a literature observation by examining library materials related to the object under study. In this observation using the approach of legislation (statute approach). Observations used in the form of qualitative observations. The results showed that before the food and beverage industry products circulated must have a distribution permit, if it is ignored will be subject to criminal sanctions and administrative sanctions. The purpose of supervision is to provide consumer protection and prevent the circulation of food that endangers consumers. Surveillance is carried out preventively and repressively. So it is very important that there is supervision and firmness of officers in overseeing the distribution of food and beverage products that do not have labels. So that consumers know more about the information of food and beverage products that they will consume clearly.

INTRODUCTION

Food and beverage is a basic human need, so the food and beverage industry is an industry that will always grow, at least following the development of the population. No wonder the food and beverage industry, especially small-scale industries have sprung up to meet this demand. The process of deep processing of food and beverages generally does not require a complex level of technology and mastery of science. Therefore almost anyone can start a business or food and beverage industry. The Food and beverage household industry (IRTP) is usually characterized by the same place of business as the residence and uses manual to semi-automatic food and beverage processing equipment.

1. The development of the food and beverage industry in 2022 reached 9.23% higher when compared to the development of the non-oil and gas industry which reached 4.84%. This shows that the food and beverage industry sector has a very large role in economic development in Indonesia.
2. According to the Ministry of industry, the rate of the food and beverage industry in the third quarter of 2022 reached 9.46% or above the National Economic Development of around 5.06% in the same period.
3. Food and beverages have become the most important basic human needs and their fulfillment is part of human rights as a basic component to realize quality human resources. The state also has an obligation to realize the availability, affordability,

and fulfillment of adequate, safe, quality, and nutritionally balanced food and beverage consumption.

From the results of the supervision of the Food and Drug Supervisory Agency (BPOM) in 2022, it showed that around 14.9% of the 26,537 food and beverage samples did not qualify due to misuse of hazardous substances, microbial contamination or food and Beverage Additives (BTP) exceeding the maximum permitted limit. Based on a report from BPOM, in the period of 2018 and 2021, food products that do not comply with the applied standards increased by about 35%. Among them are a number of hazardous materials used as additives for food and contamination.

METHOD

The research method used in writing this law is a normative juridical approach. Normative juridical approach is a study that uses secondary data sources / data obtained through library materials. This normative legal research usually includes: research on legal principles, research on legal Systematics, research on vertical and horizontal synchronization levels, Comparative Law and legal history. The method of this approach is carried out by studying the legal norms in legislation.

RESULTS AND DISCUSSION

Legal protection of consumers of unlabeled food and beverages

The number of food and beverage/snack products circulating in consumers without heeding the provisions on the inclusion of labels will certainly worry consumers. Namely expired food and beverage products, the use of dyes/preservatives that should not be intended for food so that it can threaten health and even death. Consumers as consumers need to get factual, clear and complete information about the food and beverage products they consume. In addition, consumer protection should receive more attention, especially in the present, foreign investment has become part of Indonesia's economic development that will lead to trade competition and can have negative implications for consumer protection.

The government is responsible for fostering and implementing consumer protection (Article 29 paragraph (1) of law no. 8 of 1999), and :

1. The creation of a business and the growth of a healthy relationship between businesses and consumers;
2. The development of consumer self-help consumer protection institutions;

3. Increasing the quality of human resources and increased research and development activities in the field of consumer protection (Article 29 paragraph (4) Act No. 8 of 1999).

Based on Article 8 point (1) of Law No. 8 of 1999 on consumer protection, namely : "Business actors are prohibited from producing and/or trading products and/or services that : 1) do not include the expiry date or the best period of use / utilization of certain products. 2) intentionally do not include labels or make product descriptions that contain product name , size, weight/net or net content, composition, rules of Use, date of manufacture, side effects, name and address of business actors and other information for use that according to the provisions must be included".

For businesses are required to comply with the provisions of the label in developing production course to maintain consumer protection and legal certainty. Article 6 of Law No. 8 of 1999 mentions the rights of business actors;

- a. Receive payment in accordance with the agreement regarding the condition and exchange rate of products and / or services traded;
- b. Get legal protection from the actions of consumers who misbehave;
- c. Proper self-defense in the legal settlement of Consumer Disputes;
- d. Rehabilitation and reinstatement of goodwill if it is legally proven that consumer harm was not caused by the products and / or services traded.

As a consequence of this right, business actors are charged with obligations as regulated in Article 7 of law no. 8 of 1999, as follows :

- a. Good command in English both oral and written;
- b. Good conduct in production; provide factual, clear and honest information related to the condition and warranty of products and / or services and explain the use, repair and maintenance;
- c. Treat or serve consumers in accordance with the facts and honest and non-discriminatory;
- d. Will ensure the quality of products and / or services produced and / or traded based on the provisions of the applicable product and/or service quality standards;
- e. Provide an opportunity for consumers to test and/or try certain products and / or services and provide guarantees and / or warranties on products made and / or traded;
- f. Provide compensation, compensation and / or reimbursement for losses due to the use, use and utilization of products and / or services traded;

g. Provide compensation, compensation and/or reimbursement if the products and/or services received or utilized are not in accordance with the agreement.

In fact, in the local market there are many food / snack products that are packaged in plastic, boxes, and others consumed by consumers, some are packaged with labels without including the production permit number from the party giving the permit and the expiration date. This is considered by business actors to be less or even unimportant. So the need for information that is factual, clear and complete and for businesses with the inclusion of this label can obtain protection and legal certainty.

That is known in everyday life food and Beverage Additives (BTP) has been used in general by consumers, including in the manufacture of food and beverage snacks. There are still many food and beverage manufacturers who use additives that are toxic or harmful to health that should not be used/consumed by humans.

Food and beverages are relatively durable with the aim to extend the shelf life or improve texture. While preservatives are allowed, namely benzoate, propionate, nitrite, sorbate, and sulfate, while prohibited for consumption because it is harmful to health is Borax (antiseptic and germ killer) and formalin (as preservatives corpses and organs) as stipulated in the regulation of the Minister of Health No. 722 / Menkes/Per / X / 88.

Dyes are often used by manufacturers for various foods and beverages, namely syrup, cake, gelatin, tofu, and others. Permitted dyes are caramel, beta-carotene and curcumin, while based on the regulation of the Minister of Health No. 355 / Menkes / Per / VI / 79 regulates the Prohibition of butter yellow, citrus red no. 2 and rhodamine B8. Departing from the description above, we can study and discuss the effectiveness of PP no. 69 of 1999 on Consumer Protection regarding the inclusion of labels on food and beverage/snack products.

Honest and responsible food and beverage/snack trade is not solely to protect the interests of consumers who consume food and beverages, but is expected to everyone who produces food and beverages or enters food and beverages into Indonesian territory for trade can obtain protection and legal certainty.

Competition in the food and beverage trade is regulated so that those who produce food and beverages and advertising entrepreneurs are required to make advertisements in accordance with facts and not mislead consumers, through the inclusion of food and beverage labels and advertisements that must contain information

related to food and beverages honestly. Likewise, consumers should be provided with adequate means to obtain factual and non-misleading information through food and beverage labels and advertisements. Thus consumers can make decisions based on accurate information so as to create an honest and responsible trade.

Especially regarding labels or advertisements about food and beverages that include statements that food and beverages are in accordance with certain requirements or beliefs, the person making the statement is responsible for the conformity of the facts of the statement. With regard to violations in the criminal law committed by the entrepreneur, criminal sanctions are imposed as stipulated in the law and the other side of the injured consumer does not have any rights over the violations committed by the entrepreneur. The designation of a name and / or sign in the product designates it in the label of the product in question. If it contradicts or violates the provisions, then the distribution is included in the economic crime.

Court decisions that impose sanctions in the form of administrative action in the form of prohibition to distribute, withdrawal of product list numbers, revocation of business licenses and so on for business behavior that deviates and harms consumers. Weak Court decision that does not and necessarily provide compensation to consumers or a particular settlement for consumers who have suffered losses or suffering.

If consumers want to buy a packaged food and beverage products both domestic and foreign products, should pay close attention to the label. Labels are a source of information that manufacturers want to convey to consumers about a product. The more complete the information in the label will be better for consumers in deciding whether or not to buy, so consumers as consumers need to get enough information from manufacturers related to food in circulation so that consumers correctly determine the choice of food and drinks that are safe for him.

Administrative sanctions given in the form of revocation of licenses or freezing of business licenses, while the provisions relating to consumer protection in case of violation of the sanctions obligations given to entrepreneurs as producers of products and services does not exist. On the other hand, consumers who are harmed do not have any rights for violations committed by employers who have their licenses revoked or frozen.³ Court decisions that impose sanctions in the form of administrative action in the form of prohibition to distribute, withdrawal of product list numbers,

revocation of business licenses and so on for business behavior that deviates and harms consumers. Weak Court decision that does not and necessarily provide compensation to consumers or a particular settlement for consumers who have suffered losses or suffering if consumers want to buy a packaged food and beverage products both domestic and foreign products, should pay close attention to the label.

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The label is not made and installed carelessly (haphazardly) only. Indeed, a label is easy to make but the responsibility of business actors is not that easy. From the results of the report at the Office of Industry and trade Medan, it turns out that the labels in the food / snack does not meet the standards (SNI) both in packaging and labeling system, it is due to lack of awareness of the importance of employers labelization of products in addition to the fear of employers subject to the requirements of tax payments, SIUP (trading business license), TDI (Industrial Registration Certificate) and permit SP (Certificate of counseling) and the Department of Health.

CONCLUSION

Consumer protection already exists but is not followed by the good faith of the business actors that is fixed with the principle of seeking profit as much as possible with the lowest capital without paying attention to the principle of humanity (health and soul), then there is still no protection for consumers. Similarly, the need for strict application of rules and provide a sense of justice to consumers with the participation of the judiciary during this time in deciding cases that harm consumers by only imposing sanctions in the form of closure of the company and/or revocation of business without followed by compensation to consumers who have suffered losses both to property and physical/body.

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