MJP Journal of Law and Justice (MJPJLJ)
Vol.2, No. 1 (2024): 15 – 20
https://jurnalilmiah.co.id/index.php/MJPJLJ



Legal Analysis of the Regulations on Ticketing Motorists Who Do Not Have Complete Driving Documents

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Article Info

Keywords:

Ticketing; motorcyclists; driving license; vehicle registration; traffic violations

ABSTRACT

This study aims to analyze the legal regulations for ticketing motorists who do not have or cannot show complete driving licenses, as well as the form of legal settlement for these violations. The study uses a normative legal method with a statutory regulatory approach. The main legal materials include Law Number 22 of 2009 concerning Traffic and Road Transportation, the Criminal Procedure Code, Government Regulation Number 80 of 2012, and Regulation of the Chief of Police Number 9 of 2012. The results of the study indicate that the obligation to carry and show a Driving License and Vehicle Registration Certificate is a legal obligation inherent in every motorist. Enforcement of these violations is legitimate as long as it meets legal procedures, is carried out by authorized officers, is accompanied by a warrant in periodic or incidental inspections, and is resolved through a rapid examination mechanism based on a court order. This article emphasizes that the settlement of traffic tickets should not be done through the practice of amicable fines, because this is contrary to legal certainty and has the potential to damage the legal culture of society. Traffic law enforcement must be objective, proportional, transparent, and still provide space for the community to improve their vehicle administration compliance.

Article History

Received: 15/04/2024
Revised : 10/05/2024
Accepted: 21/06/2024

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E-ISSN: 2985-900X
P-ISSN: 2986-2094

MJP Journal of Law and Justice
Vol.2, No.1 Juny (2024): 15 - 20

1. Introduction

Traffic and road transportation have a strategic function in supporting community mobility, economic activities, and public services. Therefore, traffic management must be directed towards realizing security, safety, order, and smooth traffic flow. Law Number 22 of 2009 concerning Traffic and Road Transportation positions traffic as a unified system that includes vehicles, drivers, infrastructure, road users, and their management [1]. Within the framework of a state based on the rule of law, compliance with traffic regulations is part of the effort to build social order while protecting the safety of road users.

One of the important obligations for motorcyclists is to have and show complete driving documents. Article 106 paragraph (5) of Law Number 22 of 2009 requires every driver to show a Motor Vehicle Registration Certificate or Motor Vehicle Test Certificate, Driving License, proof of passing a periodic test, and/or other valid proof when inspecting a motor vehicle on the road [1]. This obligation cannot be seen as merely an administrative requirement, because a Driving License reflects the legitimacy of the driver's competence, while a STNK shows the legality of vehicle registration. Thus, the completeness of the documents has a direct relationship with the safety, legal certainty, and responsibility aspects of the driver.

However, in practice, traffic violations such as not having a driver's license, not carrying a driver's license, not carrying a vehicle registration certificate, or using a vehicle without technical equipment still often occur. These types of violations are not always understood by the public as legal acts that can be subject to sanctions. Some people consider ticketing only as an administrative problem that can be resolved informally on the spot. This view indicates that there is still a weakness in the legal culture of the community, namely the low understanding that traffic regulations are an instrument of protection for collective safety. Soerjono Soekanto emphasized that the law does not only work through regulations, but also through the level of public awareness and compliance with these regulations [2].

Traffic violations themselves are acts that are contrary to traffic laws and regulations. Ramdlon Naning explains that traffic violations are acts that are contrary to the provisions of road traffic regulations [3]. In the context of complete driving documents, violations can occur when drivers do not have a driving license as required by Article 77 paragraph (1) of Law Number 22 of 2009, cannot show a driving license as regulated in Article 288 paragraph (2), or do not carry a vehicle registration certificate as regulated in Article 288 paragraph (1) [1]. Therefore, police officers have the authority to take action if they find such violations.

However, the authority to enforce the law must not be exercised arbitrarily. Inspections of motor vehicles and enforcement of traffic violations must follow the procedures stipulated in Government Regulation Number 80 of 2012. Periodic or incidental inspections must be carried out by authorized officers, using official attributes, equipped with a work order, and carried out with inspection signs that are easily visible to road users, except in cases of being caught red-handed [4]. In addition, a Driving License as proof of driver competence is also regulated in Regulation of the Chief of the Republic of Indonesia National Police Number 9 of 2012 [5].

Problems arise when traffic ticketing becomes more than just a law enforcement instrument, but also opens up opportunities for abuse. The practice of informal settlements, or what the public calls "peace settlements," with certain officers can divert fines that should be deposited into the state treasury. Talga Setiawan Gultom noted that the practice of peace settlements in traffic violation cases has become a problem in traffic law enforcement [6]. This condition creates a gap between the law in regulations and the law in practice. Normatively, traffic violations must be processed through legitimate legal mechanisms, but in fact, some people still prefer quick resolutions outside of procedures.

From a legal system perspective, this problem can be analyzed through Lawrence M. Friedman's three components: legal structure, legal substance, and legal culture [7]. The legal substance clearly regulates drivers' obligations, types of violations, sanctions, and inspection procedures. The legal structure provides police and courts with the means to enforce the law. However, the legal culture of the community and some officials still determines whether these regulations are truly effective. Therefore, enforcement of traffic ticket regulations cannot simply rely on written norms, but must also take into account the professionalism of the officers and the public's legal awareness.

Soerjono Soekanto's theory of legal effectiveness is also relevant to explaining this issue. Legal effectiveness is influenced by legal factors, law enforcement factors, facilities, societal factors, and cultural factors [8]. In the context of ticketing drivers who do not have complete driving licenses, legal effectiveness is determined by the clarity of the rules, the firmness of traffic police, the availability of transparent fine payment mechanisms, public compliance, and traffic culture. If any of these factors is weak, law enforcement can shift from the goal of order to transactional practices that are detrimental to the state and society.

Based on this description, the problem formulation of this article is:

1. What is the legal analysis of the rules for ticketing motorcyclists who do not have complete driving documents?

2. What is the legal solution if the driver does not have complete driving documents?

In line with the problem formulation above, this article aims to answer both questions and contribute to strengthening legal certainty in the enforcement of traffic violations. The research that forms the basis of this article examines the legal analysis of the rules for ticketing motorists who do not have complete driving documents and the form of legal settlement [9]. The novelty of this article lies in the affirmation of the relationship between the legal obligations of drivers, motor vehicle inspection procedures, confiscation of evidence, and the mechanism of rapid inspection as a series of law enforcement that must be implemented objectively and proportionally.

2. Research Methods

This study uses normative legal research. This type of research was chosen because the main focus of this article is to examine the provisions of positive law governing the fines for motorists who do not possess or cannot present a valid driver's license. Law is understood as norms that regulate societal behavior, particularly those contained in traffic laws, criminal procedure laws, and police regulations.

The approach used is the statutory regulatory approach. This approach is carried out by examining the provisions of Law Number 22 of 2009 concerning Traffic and Road Transportation, the Criminal Procedure Code, Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motor Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations, Law Number 2 of 2002 concerning the Republic of Indonesia National Police, and Regulation of the Chief of Police Number 9 of 2012 concerning Driving Licenses [1], [4], [5].

The legal materials used consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include binding laws and regulations. Secondary legal materials include books, journals, scientific works, and research findings that discuss the legal system, legal effectiveness, legal compliance, policing, criminal procedure, and traffic violations. Tertiary legal materials are used as supporting materials to clarify the legal terms and concepts used in the discussion.

The legal material collection technique was conducted through a literature study by inventorying, identifying, and classifying relevant laws and regulations and literature. All legal materials were analyzed normatively by interpreting legal norms, linking them to legal doctrine, and drawing conclusions based on the suitability between the legal provisions and the issues being studied. The analysis was directed at answering two research questions: the legal basis for ticketing and the legal remedies for violations of driver's license completeness.

3. Results and Discussion

This results and discussion section is structured to address two research questions. The first section focuses on a legal analysis of motorists' obligation to possess and present valid driving licenses and the authority of police officers to issue tickets. The second section focuses on legal remedies for these violations, specifically through expedited inspections, court-imposed fines, and confiscation of evidence in accordance with legal provisions. The analysis is conducted by connecting traffic norms, criminal procedure law, legal system theory, legal effectiveness theory, and practical issues such as the resolution of traffic tickets outside of formal procedures.

3.1. Legal Analysis of the Regulations on Ticketing Motorcyclists Who Do Not Have Complete Driving Documents

The regulation on ticketing motorists who do not have complete driving documents has a clear legal basis in Law Number 22 of 2009. Article 77 paragraph (1) requires every person who drives a motorized vehicle on the road to have a driving license according to the type of vehicle being driven [1]. This obligation serves to ensure that the driver has driving competence. Police Chief Regulation Number 9 of 2012 emphasizes that a driving license is proof of legitimacy of competence, a control tool, and police forensic data for someone who has met the requirements to drive a motorized vehicle [5].

In addition to a driver's license, drivers are also required to carry and show a vehicle registration certificate (STNK). Article 68 of Law Number 22 of 2009 stipulates that every motorized vehicle operated on the road must be equipped with a Motor Vehicle Registration Certificate (SNI) and a Motor Vehicle Registration Certificate (STNK). The STNK serves as proof that the vehicle has been legally registered. Therefore, the completeness of driving documents in the context of this article includes at least two important aspects, namely the driver's competence through the SIM and the legality of the vehicle through the STNK.

Legally, there is a difference between not having a driving license and not being able to show a driving license. Article 281 of Law Number 22 of 2009 stipulates that anyone who drives a motorized vehicle on the road without having a driving license can be punished with imprisonment for a maximum of four months or a fine of up to IDR 1,000,000.00 [1]. Meanwhile, Article 288 paragraph (2) stipulates that drivers who cannot show a valid driving license can be punished with imprisonment for a maximum of one month and/or a fine of up to IDR 250,000.00 [1]. The difference in sanctions shows that the law differentiates between substantive violations in the form of not having

a driving license and administrative violations in the form of not being able to show documents during inspection.

The obligation to show a STNK also has legal consequences. Article 288 paragraph (1) of Law Number 22 of 2009 stipulates that drivers who are not equipped with a STNK or Motor Vehicle Test Certificate can be punished with imprisonment for a maximum of two months or a fine of up to IDR 500,000.00 [1]. This provision shows that motor vehicles used on the road are not only physically roadworthy, but must also be administratively valid. The absence of a STNK can raise doubts regarding the vehicle's identity, ownership, and legal status.

In the context of enforcement, the police have the authority to stop motor vehicles, request information, examine documents, and take other actions according to the law responsibly. Law Number 2 of 2002 positions the Republic of Indonesia National Police as a state instrument that plays a role in maintaining public security and order, enforcing the law, and providing protection, guidance, and services to the community [10]. Sadjijono explains that the function of the police includes institutional dimensions and legal functions, namely the implementation of duties and authorities based on the law [11]. Therefore, ticketing is not a free action by officers, but rather a legal action that must be based on official authority.

This authority is emphasized in Article 260 of Law Number 22 of 2009 which gives authority to National Police investigators in the field of traffic to stop, prohibit or delay operations, temporarily confiscate vehicles that are suspected of violating regulations, request information, confiscate driving licenses, vehicle registrations, motor vehicles, or test pass marks as evidence, and take action against traffic violations [1]. Thus, ticketing drivers without complete driving documents is part of traffic law enforcement.

However, enforcement authority must be limited by procedures. Government Regulation Number 80 of 2012 regulates the procedures for inspecting motor vehicles on the road. Inspections can be conducted periodically or incidentally. In periodic or incidental inspections, officers must be equipped with a work order containing the reason, pattern, time, place, person in charge, and a list of inspecting officers [4]. Officers are also required to wear uniforms and official attributes. At the inspection location, a sign must be installed at a certain distance for easy visibility for road users [4].

These procedural requirements serve an important role in preventing abuse of authority. Traffic inspections that lack a clear basis for their assignment can lead to public distrust. In legal system theory, this condition relates to the components of the legal structure, namely the institutions and officials who enforce the law [7]. Ade Maman Suherman explains that the legal system is a whole consisting of various interconnected parts [12], while Salim HS emphasizes that the legal system works through the orderliness of its elements [13]. If officials do not carry out inspection procedures correctly, the legal structure will not function as expected.

In terms of legal substance, the regulations regarding ticketing are actually quite comprehensive. Law Number 22 of 2009 regulates obligations, prohibitions, types of violations, and sanctions. Government Regulation Number 80 of 2012 regulates procedures for inspection, prosecution, and confiscation of evidence. The Criminal Procedure Code (KUHAP) regulates the mechanism for examining traffic violations through expedited investigations. The main problem lies in legal culture. When people prefer to pay settlement money for a quick resolution, legal norms do not function as they should. At the same time, if officers accept informal settlements, law enforcement loses its legitimacy.

Thus, the legal analysis shows that ticketing motorists who lack complete driver's licenses is a valid legal action as long as it meets the authority, the object of the violation, and the inspection procedures. Violations such as not having a driver's license, failing to show a driver's license, not carrying a vehicle registration certificate (STNK), or not having complete vehicle documentation carry their own sanctions. However, ticketing must be carried out objectively, proportionally, and transparently, and must not be used as an informal settlement that ignores court provisions and the mechanism for paying fines to the state treasury.

3.2. Forms of Legal Resolution for Drivers Who Do Not Have Complete Driving Documents

The legal resolution of violations of driver's license completeness cannot be separated from criminal procedural law. The Criminal Procedure Code recognizes several forms of criminal case examination procedures, namely the regular examination procedure, the brief examination procedure, and the express examination procedure [14]. Lilik Mulyadi explains that criminal procedural law functions as a means to find the truth, bring cases to court, and enforce decisions [15]. In the context of traffic violations, the mechanism used is the express examination procedure because the type of case is classified as a minor violation and the proof is relatively simple.

Article 211 of the Criminal Procedure Code stipulates that certain cases of violations of traffic regulations are examined according to express examination procedures [14]. These violations include, among others, driving a motorized vehicle without being able to show a driver's license, vehicle registration certificate, vehicle inspection certificate, or other evidence required by traffic regulations. Achmad S. Soema Di Pradja explains that the main function of

criminal procedure law is to seek and discover the truth, make a decision by the judge, and implement the decision [16]. In traffic ticket cases, these functions are carried out simply, quickly, and remain within the legal framework.

Law Number 22 of 2009 also emphasizes the settlement mechanism through the courts. Article 267 paragraph (1) stipulates that every violation in the field of traffic and road transportation that is examined according to the express examination procedure can be subject to a fine based on a court decision [1]. Furthermore, Article 269 paragraph (1) states that the fine determined by the court is deposited into the state treasury as Non-Tax State Revenue [1]. This provision shows that traffic fines are not direct payments to officers, but rather criminal sanctions that must be decided or determined through an official mechanism.

In enforcement practice, officers use ticket forms as a record of violations, notification of court schedules, and administrative basis for the expedited investigation process. The ticket form serves as a document that connects road enforcement with court proceedings. Because the evidence is simple, investigators do not always need to compile an investigation report as in ordinary cases. Bambang Poernomo distinguishes between violations and crimes in criminal law, where violations generally carry less severe penalties than crimes [17]. Therefore, the expedited investigation mechanism is in accordance with the characteristics of traffic violations.

Legal settlement is also related to the confiscation of evidence. Government Regulation Number 80 of 2012 stipulates that inspection officers can confiscate driving licenses, vehicle registration certificates, public transportation permits, proof of passing a test, cargo, and/or motorized vehicles used to commit violations [4]. Confiscation of driving licenses is carried out every time a traffic violation occurs, while confiscation of vehicle registration certificates can be carried out if the driver does not carry a driving license [4]. Motorized vehicles can be confiscated under certain circumstances, for example if they are used to commit a violation and are needed as evidence.

These provisions need to be understood proportionally. Not all document violations necessarily result in vehicle confiscation. If a driver cannot produce a driver's license, the consequences are the confiscation of certain documents as evidence and the ticketing process. However, if a vehicle does not have a vehicle registration certificate (STNK) or there is suspicion that the vehicle is connected to a crime, then action against the vehicle can be taken according to legal authority. Wirjono Prodjodikoro emphasized that criminal acts must be understood based on their unlawful nature and the consequences determined by the regulations [18]. Therefore, action must be tailored to the type and level of violation.

In traffic violation cases, defendants or violators also have the opportunity to participate in a speedy trial. The Criminal Procedure Code (KUHAP) allows for simplified traffic violation trials, and under certain circumstances, violators can appoint a representative to attend the trial. If the violators are not present, a verdict can be rendered without their presence, while still observing the decision notification mechanism. This mechanism demonstrates that speedy trials do not eliminate the principle of legal certainty, but rather simplify the process due to the nature of the violation and the ease of obtaining evidence.

Proper legal resolution must be distinguished from informal resolution. The practice of peaceful fines does not comply with the provisions of Article 267 and Article 269 of Law Number 22 of 2009 because fines must be based on a court decision and go into the state treasury [1]. In addition to harming the state, this practice also damages the legal culture of society. ST Kansil emphasized that the law contains norms and sanctions aimed at creating order in social interactions [19]. If violations are resolved transactionally outside of procedure, then the function of law as a tool of order becomes weakened.

However, law enforcement also needs to pay attention to the development aspect. Drivers who do not carry a driver's license due to administrative negligence are different from drivers who do not have a driver's license at all. Drivers who forget to carry a driver's license can be subject to the provisions of Article 288 paragraph (2), while drivers who do not have a driver's license are subject to Article 281 [1]. This difference must be the basis for the application of objective and proportional sanctions. Authorities can provide an explanation regarding legal obligations and provide an opportunity for the public to improve the completeness of vehicle administration, without eliminating the legal process if a violation has occurred.

The ideal legal resolution is one that combines legal certainty, expediency, and justice. Legal certainty is achieved through enforcement of the violation and expeditious trial in court. Expediency is achieved through orderly traffic, road user safety, and state revenue from legal fines. Justice is achieved through equal treatment of violators, a prohibition on extortion, and proportional sanctions. Therefore, legal resolution for drivers who lack valid driving licenses must be directed at enforcing legal regulations and fostering a culture of orderly traffic.

The main finding in this subsection is that the legal resolution for violations of driver's license completeness is carried out through express inspections with fines based on court orders. Confiscation of driver's licenses, vehicle registration certificates, or vehicles must be carried out according to the type of violation and the

provisions of Government Regulation Number 80 of 2012. Informal settlements through amicable fines have no legal basis and should be avoided. Therefore, law enforcement officers need to ensure the ticketing process is transparent, while the public needs to increase compliance by completing their driver's licenses and vehicle registration certificates before driving a motorized vehicle on the road.

4. Conclusion

A legal analysis of the regulations on ticketing motorists who do not have complete driving documents shows that the action has a strong legal basis in Law Number 22 of 2009, Government Regulation Number 80 of 2012, and Regulation of the Chief of Police Number 9 of 2012. Drivers are required to have and show a driver's license and vehicle registration certificate during motor vehicle inspections on the road. Violations such as not having a driver's license, being unable to show a driver's license, or not carrying a vehicle registration certificate have different sanction consequences. Therefore, ticketing is valid as long as it is carried out by authorized officers, follows inspection procedures, and is carried out objectively and proportionally. The form of legal settlement if a driver does not have complete driving documents is carried out through a rapid inspection mechanism as regulated in the Criminal Procedure Code and Law Number 22 of 2009. Traffic violation fines must be based on a court decision and deposited into the state treasury as Non-Tax State Revenue. Confiscation of driver's licenses, vehicle registration certificates, or vehicles as evidence must be carried out in accordance with Government Regulation Number 80 of 2012. The practice of informal settlements or settlement fines is inconsistent with the principle of legal certainty and must be prevented through officer oversight, transparency in the ticketing process, and increased public legal awareness. Therefore, enforcement of ticketing regulations needs to be directed not only at punishing violators, but also at building a culture of orderly, safe, and responsible traffic behavior.

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