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Crimination of food and beverage business persons that endanger health in consumer protection perspective

Elly Christanti Gautama¹, Made Warka², Endang Prasetyawati², Erny Herlin Setyorini⁴

^{1 2 3 4} Faculty Of Law, Universitas 17 Agustus 1945 Surabaya, Indonesia

sofiaindra5@gmail.com

Abstract. This research method uses normative legal research. The urgency of legal protection for food and beverage consumers from business actors that endanger health must receive attention from the community, local governments, government and other state institutions so that they can take responsibility for the health of every citizen. Every person or business actor, both stalls or street vendors who sell food and beverages that endanger the health and safety of the consumer's life, is essentially important to be monitored through the laws and regulations specifically stated in the Consumer Protection Act.

Keywords. food and beverage, consumer protection

Introduction

The development of the business world in the era of digitalization where business actors can easily market their products directly to consumers has an impact that isn't only good but can also have a bad impact. Especially for business actors who sell food and drinks circulating in stalls, street vendors on the roadside aren't well controlled. Legal protection for consumers must be continuously monitored by the government and related institutions to improve welfare and health for the community, especially legal protection for food and beverage consumers from small business actors or hawkers commonly called street vendors who often don't meet food safety standards. This can be seen with the enactment of the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection (Law No. 8-1999).

With the existence of the Consumer Protection Law, guarantees for the protection of consumer rights in Indonesia are expected to be fulfilled properly. (Heri Hartanto, 2016) The issue of placed in the corridor of a consumer protection law system, which is part of the national legal system. The existence of Law No. 8-1999 as a strong legal basis for the government and non-governmental consumer protection institutions to make efforts to empower consumers through consumer development and education UU No.8 – 1999 is a “legal umbrella” that integrates and strengthens law enforcement in the field of consumer protection.

Based on the description of the background of the problem as stated above, the following problems can be stated : 1. The urgency of legal protection for food and beverage consumers from business actors that endanger health; 2. The concept of punishment for food and beverage business actors that endanger health in the perspective of consumer protection.

Legal protection for consumers is very necessary to continue to be carried out because it's related to efforts to improve the welfare and health of the community in relation to the growing economy in Indonesia, including the food and beverage industry, both on a large and small scale. Indonesia has actually tried to protect the rights of every citizen, especially consumer rights UU no. 8-1999 hasn't been detailed in the Consumer Protection Act concerning permits for business actors, especially business actors who sell on the roadside, stalls or at schools.

In addition, consumer protection is an urgent need to be submitted because it cannot be separated from the consumer protection movement carried out throughout the world. The organized protection movement was founded in 1891, with the formation of the first consumer league in New York and in 1898 at the United States National level the (*National Consumers' League*) was formed. This organization grew and developed so rapidly that by 1903 it had developed into several states.

In 1962 United States President John F.Kennedy presented to Congress several consumer rights, namely the right to security, to vote, to be informed, and to be heard.(Sutedi, 2008) The consumer rights proposed by John F.Kennedy are included in the European *Economic Community (EEC)* program as follows : the right to protect health and safety, protect economic interests, obtain compensation, the right to information and the right to be heard.(Reich, n.d.)

Research methods

This research method uses normative legal research.(Tomy Michael, n.d.)

Research result

Analysis of the urgency of legal protection against food and beverage consumers from business actors that endanger health.

The definition of protection in English is *protection*. According to the Black Law Dictionary 10th Edition, *protection, n. (14c); The act of protecting* (element of action to protect), *Protection ISM* (element of parties who protect) and *Coverage* (element of how to protect).(Garner, 2014)

So the word protection means, an act of protection / action to protect from certain parties given to certain parties by using certain methods. Food and drink are the most basic needs for every human being. In fulfilling basic needs, food and drink should fulfill nutritional value, be nutritious, sufficient, and safe for the health of the body and to guarantee all of this, it's necessary to have legislation to provide protection for consumers who are often victims of business actors who want to double their profits. Large companies don't hesitate to include substances such as textile dyes, borax, plastics which shouldn't be used in food and beverage mixtures. If consumed continuously will be able to interfere with digestion and cause disease which will certainly endanger the safety of the consumer's life. That Law no. 8-1999 hasn't regulated about everyone, business actors / street vendors, both stalls and roadside must have a permit to facilitate the relevant authorities in supervision which will certainly provide legal protection for the health and safety of consumers' souls.(Shidarta, 2014)

Pancasila as the ideological system of the Indonesian state are the basic values that are the source for the compilers of legal norms in Indonesia. The values of Pancasila are further elaborated in the existing laws and regulations.(Hijawati, 2020) Human rights as consumers must also be protected, especially in the protection of business actors who because they want to double up on big profits don't hesitate to include materials containing hazardous substances

such as textile dyes, borax, plastics and others, which can endanger safety consumer soul.(Admin, 2019)

The Concept of Criminalizing Food and Beverage Business Actors that Endanger Health in the Perspective of Consumer Protection

In criminal law, it's known as objective law and criminal law in a subjective sense. Criminal Law in an Objective Meaning (*Ius Ponale*) is a regulation that prohibits a violation to be subject to criminal sanctions. Meanwhile, Criminal Law in a Subjective Meaning (*Ius Poenendi*) is a regulation that criminalizes a person who commits an offense punishable by a criminal offense.

The theory of punishment is directly related to crime in a subjective sense. Because these theories explain the basics of the state's right to impose and carry out crimes. These theories are retaliation theory, goal theory, and combined theory. Jan Rummelink said that apart from the three theories, he also mentioned the covenant theory. According to him, the theory of natural law and treaties is seen as the only true one. By nature, it's natural that someone who commits a crime will receive back the appropriate reward, against such natural provisions the individual is considered to be submissive. ("PERLINDUNGAN HUKUM DAN SOSIAL TERHADAP PEDAGANG KAKI LIMA JALAN MENTERI SOEPENO KOTA SEMARANG PASCA RELOKASI," 2014)

According to Sudarto, stating that punishment is suffering that is intentionally imposed on people who carry out actions that meet certain conditions that result in harm to others. Criminal law is absolutely necessary in criminal law which aims to be a means of general and specific prevention for every community so as not to commit acts that violate the law.(Latif, 2020)

Basically, both consumer law and consumer protection law talk about the same thing, namely the legal interests (rights) of consumers.(Poernomo, 2019) How consumer rights are recognized and regulated in law and how they are enforced in the practice of social life are the subject of discussion in this dissertation. Thus, consumer protection law or consumer law can be interpreted as a whole legal regulation that regulates the rights and obligations of consumers and producers that arise in their efforts to meet their needs.(Agus, 2018)

The concept of criminalizing food and beverage business actors that endanger health in the perspective of consumer protection must be able to contain imprisonment and/or fines that will be imposed if someone has committed a crime or criminal act (*quia peccatum est*). Crime is an absolute consequence that must exist as a form of sanction to people who commit crimes. This concept uses *absolute-retributive* theory. Any doingwrong that results in disruption of the health and safety of the soul of food and beverage consumers committed by business actors either with intentional or negligent elements must be subject to imprisonment and/or fines to fulfill a sense of justice and legal certainty for consumers so that there is a balance of moral ethics.(Subagiyo, 1999)

Food and beverage consumers have a weaker position than business actors, therefore consumers must be protected through laws and regulations that can explicitly provide protection. Every person or business actor who sells food and drinks in stalls, roadside, street vendors who intentionally or due to negligence causes disruption to the health and safety of the consumer's life is subject to criminal sanctions and/or fines. (Brotosusilo, 2017)

Conclusion

The urgency of legal protection for food and beverage consumers from business actors that endanger health must receive attention from the community, local governments,

government and other state institutions so that they can take responsibility for the health of every citizen. Every person or business actor, both stalls or street vendors who sell food and beverages that endanger the health and safety of the consumer's life, is essentially important to be monitored through the laws and regulations specifically stated in the Consumer Protection Act.

The concept of criminalizing food and beverage business actors that endanger health in the perspective of consumer protection must contain laws and regulations that provide imprisonment and/or fines for every business actor who sells in stalls, roadside, street vendors who endanger health or life safety consumer. Through imprisonment and/or fines against business actors who endanger the health and safety of consumers' souls, it's expected to raise awareness for food and beverage business actors who are in stalls or street vendors not to do or repeat their actions. The concept of criminalizing food and beverage business actors who endanger the health and safety of consumers' lives is needed to prevent victims as a preventive measure.

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