



Law Enforcement Against Motorcyclers Who Do Not Have a Driving License in Sukabumi Based on Undang-Undang no. 22 of 2009

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ABSTRACT

Motorized vehicles are currently one of the means of transportation used by Indonesian people. With the large number of motorbikes used, there are also many traffic violations occurring on the roads. Therefore, the government issued statutory regulations for road users, namely Law Number 22 of 2009. In this provision, motorbike users must have a driving license, which is stated in Article 77 paragraph (1) of the LLAJ Law. The fact is that there are still people who are still disobedient and do not have a driving license. Actions given to violators are carried out by repressive law enforcement, giving punishments in the form of tickets and fines given by law enforcers, sometimes not based on Article 281 of the LLAJ Law. This research aims to find out how law enforcement and the sanctions given are by those stated in the LLAJ Law. The method used is a qualitative method with an empirical juridical approach.

INTRODUCTION

Human activities today have been assisted by technological advances, the presence of technology makes it easier for humans to carry out various activities, one of which is transportation. Transportation is defined as a process of moving people and/or goods from one place to another using a certain system for a certain purpose or purpose. The role of transportation in traffic is regulated in the national transportation system in an integrated manner and is expected to be able to realize the availability of transportation services that are in harmony with the level of traffic needs that are orderly, safe, comfortable, fast, regular, smooth and affordable for the community. According to Muhammad Ali, traffic is walking, back and forth, traveling on the road. Ramdon Naning also explained the meaning of traffic, namely the movement of people with or without means of movement from one place to another. Nowadays, motorbikes can be used by both upper-class and lower-class people. Motorized vehicles as a means of land transportation can carry out their activities quickly and easily. There are also many benefits to be gained from this motorized vehicle, both from a practical and economic perspective. However, motorized vehicles also have a negative impact on people who do not obey the rules when driving a vehicle. It is not surprising that many motorbike users also commit traffic violations. Ramdon Naning explained that what is meant by a traffic violation is an act or action that is contrary to the provisions of traffic laws.

A phenomenon that often occurs in traffic violations in various regions is that drivers ignore having a driving license, they assume that not having a driving license is not a problem, even though the provisions for having a driving license have been specified in traffic laws and regulations. in article 77 of Law number 22 of 2009 concerning Road Traffic and Transportation. If it is stated in the statutory provisions and they do not comply, they will be punished or sanctioned by law enforcement officials. In the jurisdiction of the Sukabumi Police, there are still many drivers who commit traffic violations who do not have a driving license, they are of sufficient age and have met the requirements for a driving license, but they are free to travel on the highway without any fear of not having a license. while driving. It was recorded that several violators were caught by the traffic police in 2019, there were 5,212 traffic violations and in 2020 there were 2,111 violations, in 2021-2022 there was a decrease in the number of violations, namely only around 200-400 traffic violations, this is due to the Covid-19 pandemic. , in the last year 2023, there was no data on violations for not having a driving license because in that year the ETL system was used via CCTV or cellphones so they could not directly interact with drivers who were read by the violation camera.

Law enforcement is one of the keys to reducing the occurrence of traffic violations. Weak law enforcement will make people think that committing violations is considered something normal without significant sanctions. Therefore, the researcher will focus on law enforcement regarding the use of motorized bicycles that do not have a driving license and the sanctions applied

to motorbike riders who do not have a driving license based on Law number 22 of 2009 concerning road traffic and transportation.

THEORETICAL REVIEW

Law Enforcement Theory

This theory was put forward by Lawrence M Friedman, law enforcement is a complex problem, not only because of the complexity of the legal system itself, but also because of its complex relationship with the social, political, economic, and cultural systems of society. As a process, law enforcement is a variable that has correlation and dependence on factors. Related factors that influence the law enforcement process, as stated by Lawrence M. Friedman, include substance, structure, and culture. Thus, it clarifies that law enforcement is the process of making efforts to enforce or function legal norms in real terms, among other things, as guidelines for people's behavior in traffic using vehicles, especially motorized vehicles, or legal relations in social and state life.

Legal Certainty Theory

Legal certainty is an inseparable characteristic of law, especially written legal norms. Laws without the value of certainty will lose meaning because they can no longer be used as guidelines for behavior for everyone. This theory of legal certainty was put forward by Gustav Radbruch. According to Gustav Radbruch, legal certainty is a positive law that regulates the interests of society which must be obeyed even though the positive law is unjust. Legal certainty is defined as clarity of norms so that they can be used as guidelines for communities subject to regulations.

METHODOLOGY

The research methodology used in this research is empirical juridical, using this method makes it easier for researchers to study law which is conceptualized as real behavior as an unwritten social phenomenon experienced by everyone in society. The sources used by researchers are primary legal sources, in this case conducting direct interviews with the Sukabumi Police regarding traffic violations, and secondary legal sources such as books, journals, regulations, and laws relating to traffic violations. Researchers collected data by conducting observations, interviews, and literature studies in accordance with research needs on traffic violations. Researchers carry out data analysis using qualitative methods, where this analytical method can help researchers describe a problem and solve the problems being researched.

RESEARCH RESULTS

Law Enforcement Against Motorcycle Riders Who Don't Have a Driving License

Based on the results of interviews with sources from the head of the security and safety unit, law enforcement carried out against motorbike riders

who do not have a driver's license is considered a traffic violation. Traffic law enforcement is traffic law activities that are grouped into two parts, namely preventive traffic law enforcement and repressive traffic law enforcement.

1. Preventive Law Enforcement

Preventive law enforcement is carrying out activities to appeal to the public regarding traffic, such as traffic control activities, traffic guarding, traffic escorts, and traffic patrols, or carrying out socialization related to traffic, especially for people who have vehicles, where these activities convey the obligation for drivers to have a driving license, having a driver's license is not only to avoid law enforcement but to make the driver's license an identity registered with the police. If something unpleasant happens, such as an accident, the police can check the owner of the motorbike.

2. Repressive Law Enforcement

Repressive law enforcement is taking action against traffic violations by providing warnings or warnings against traffic violations. For violators who do not have a driver's license, legal action is taken, namely legal action against traffic violations using a ticket. Meanwhile, based on an interview with the head of the security and safety unit, IPDA Freadi also said that the last resort taken by officers against violators of Article 281 was to issue a ticket.

A violation Evidence Letter (Tilang) is a form of letter given by police investigators to traffic violators as proof that a road traffic violation has occurred. The traffic ticket has 5 (five) copies, namely:

1. The red sheet is intended for violators who wish to be tried at the District Court.
2. The blue sheet is intended for violators who will pay fines at the bank.
3. Green sheet for archives at the Horrible Court.
4. Yellow sheet for archives at the Police
5. White sheet for archives at the District Attorney's Office

In article 267 of Law Number 22 of 2009 concerning road traffic and transportation:

- a. Paragraph (1) every violation in the field of traffic and road transportation is examined according to a rapid examination procedure, may be subject to a fine based on a court decision.

- b. Paragraph (2) the rapid inspection event as intended in paragraph (1) can be carried out without the presence of the violator,
- c. Paragraph (3) violators who are unable to attend as intended in paragraph (2) can entrust fines to the bank designated by the government.

Regarding the results of the interview with the head of the security and safety unit, IPDA Freadi said that every time a safety operation is carried out, if a driver is seen committing a traffic violation, the first thing is to stop the driver, then the thing that the officer must do is ask about the legality of the driver, namely the ownership of a driving license, if the driver If you don't have a driving license, the officer will issue a warning in the form of providing a letter of proof of the violation, the officer will also detain the driver's items, such as a vehicle registration certificate (STNK), or the vehicle if the driver doesn't have a vehicle registration certificate. The items detained by the officers are used as evidence. However, in carrying out fines, there are 3 options given by police officers to violators to choose a solution to their punishment, namely:

1. Trial in Court
The option for legal settlement in court is that violators follow a trial process where the trial process is scheduled every Friday or a week after the ticket is issued. The trial process runs quickly, around 1-2 minutes for each violator, after being sentenced by the court judge and paying the fine amount that has been determined, the violator can take their driver's license or STNK at the counter provided or take it to the prosecutor's office after the file has been returned by the court.
2. Pay at the Bank
This legal settlement option is simply to pay a fine to the designated bank. This option usually means that violators are given a blue slip by police officers. Next, the violator deposits the fine to the bank, then the bank will provide proof of payment, this proof of payment is given to the ticketing officer and the violator asks for the STNK that was detained by the officer back. The blue slip is sent to the District Court for a trial without the presence of the applicant (verstek).
3. Entrust power of attorney for the trial (entrust the trial)
This legal settlement option involves the offender giving power of attorney to a police officer to attend the trial and the trial will be held in private. Next, the violator entrusts

the fine to the police officer, then the officer pays it to the bank and sends the blue slip to the District Court.

Meanwhile, according to the head of the security and safety unit, he explained that so far, many violators who have been raided for traffic violations in the Sukabumi Regency community have chosen the process. Not all of them want to go through court, the violators only want to pay the fine by paying at the bank and entrust the hearing to the officers. For the reason that they don't want the hassle, in the sense that the police officer gives a blue slip to the violator when giving a ticket. Police law enforcers sometimes apply other alternative sanctions to violators so that violators can choose a legal resolution route, namely by negotiating between the violator and police law enforcers to choose an on-the-spot fine. Sometimes the fines given are lighter. So that more offenders complete their sentences on the spot when they are raided so that it doesn't take a long time

Sanctions Applied to Motorcycle Riders Who Do Not Have a Driving License in accordance with Article 281 of Law no. 22 of 2009 concerning Road Traffic and Transportation

Sanctions according to the Big Indonesian Dictionary (KBBI) are legal steps imposed by a state or certain group because of a violation committed by a person or group. According to Utrecht, what is meant by sanctions is the result of an action or a reaction from another party, be it a human or a social institution, to a human action. Based on the results of an interview with the head of the security and safety unit, IPDA Freadi said that regarding the application of sanctions for a violation, that is, only a fine is given, and no imprisonment is given because this is only a type of violation, not a crime. To apply sanctions against violators, it is not necessary to comply with what is stated in the provisions of Law Number 22 of 2009 in Article 281 which reads "Every person who drives a motorized vehicle on the road who does not have a driving license as intended in Article 77 paragraph (1) shall be sentenced to imprisonment for a maximum of 4 (four) months and a fine of a maximum of Rp. 1,000,000 (one million rupiah)." In its application to violators of this article, it is not always by what is stated in the law, because the law enforcers here are judges, judges must exercise consideration when giving punishment to violators, especially traffic violations. as explained by the Head of the IPDA head of the security and safety unit Freadi, implementing sanctions depends on the court's decision, as well as what policies are given by the court regarding the issue of fines based on the law. Because there is no maximum fine for violations. This is by Supreme Court Circular Letter Number 4 of 1993 which states: "In determining the maximum deposit for minor, moderate and serious violations, the Chairman of the District Court must pay careful attention to the social and economic conditions in their respective jurisdictions. "By the circular letter above, it can be understood that the imposition or imposition of fines on violators depends on the circumstances and capabilities of the local community. The circular letter is not binding, but the provisions contained in it are generally complied with by the District Court, for the reason of reducing the diversity

(disparity) of fines. Punishment is a form of deterrent effect from the legal system in Indonesia, referring to criminal cases.

Table of Traffic Violation Decisions for Motorcycle Riders Without a Driving License Cibadak District Court, Sukabumi Regency

No	Transportation type	Type of Violation	Fine (Rp)	Case Fees	Subsidiary (kurungan)
1.	Motorcycle	Pasal 281	139.000	1.000	3 Hari
2.	Motorcycle	Pasal 281	79.000	1.000	3 Hari
3.	Motorcycle	Pasal 281	79.000	1.000	3 Hari
4.	Motorcycle	Pasal 281	79.000	1.000	3 Hari
5.	Motorcycle	Pasal 281	79.000	1.000	3 Hari

Based on the table above, shows data regarding perpetrators of traffic violations in Article 77 paragraph (1), there are 5 cases with different amounts of fines imposed by the court, the fines imposed are classified as lighter than the provisions of the Road Traffic and Transportation Law, from the amount imposed The law given by the judge will not have a deterrent effect and people who have violated it will likely repeat it.

CONCLUSIONS AND RECOMMENDATIONS

Traffic law enforcement is traffic law activities that are grouped into two parts, namely preventive traffic law enforcement, which means carrying out activities to appeal to the public regarding traffic, such as traffic control activities, traffic guarding, traffic control, and traffic patrols, or conducting socialization related to traffic, especially for people who have vehicles, where these activities convey the obligation for drivers to have a driving license, having a driver's license is not only to avoid law enforcement but to make the driver's license an identity registered with the police and repressive field, which means taking action against traffic violations by giving warnings or warnings against traffic violations. For violators who do not have a driver's license, legal action is taken, namely legal action against traffic violations using a ticket. Meanwhile, based on an interview with the head of the security and safety unit Unit, IPDA Freadi also said that the last resort taken by officers against violators of Article 281 was to issue a ticket.

ADVANCED RESEARCH

This research is certainly not perfect and there are still many shortcomings in this research, so for researchers who will research related to

law enforcement against motorbike riders who do not have a driving license, this research can be a reference for developing ideas and systems that are implemented to enforce drivers who do not have a driving license.

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