

The Control of Permits for Selling Alcoholic Drinks in Medan City in Accordance with Medan Mayor Regulation Number 12 of 2011

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ABSTRACT

Mayor Regulation is a type of statutory regulation set by the mayor. However, the new Mayor's Regulations are recognized and have binding legal force as long as they are ordered by higher laws and regulations or are formed based on authority. Regulation of the Mayor of Medan Number 12 of 2011 concerning levies for permits for selling alcoholic beverages Medan City. The reason for this research is that the researcher wants to know the control of permits for selling alcoholic beverages Medan City in accordance with the Regulation of the Mayor of Medan Number 12 of 2011. This study uses the approach method used in this study is a qualitative approach which is used to describe and analyze the phenomenon. , events, social activities, attitudes, beliefs, perceptions and people individually or in groups. And the results of the study indicate that the control of permits for selling alcoholic beverages in Medan City in accordance with the Regulation of the Mayor of Medan Number 12 of 2011 has not been implemented properly and properly. This is because there are still many sellers of alcoholic beverages who do not have an official business license.

KEYWORDS

Sales; alcoholic beverages; Medan Mayor Regulation Number 12 of 2011;

INTRODUCTION

Indonesia is a legal state in accordance with the mandate of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945). Law serves as the protection of human interests. In order for human interests to be protected, the law must be implemented. The constitution has mandated the regions to regulate and manage their own government affairs according to the principles of autonomy and co-administration. This is stated in Article 18 of the 1945 Constitution. The system of governance in Indonesia includes a central government system and a regional government system. The practice of governance in intergovernmental relations is known as the concepts of centralization and decentralization. The concept of centralization shows the characteristics of some of the authority of government affairs which are the obligations of the government, given to local governments.¹

Production of Beverages Containing Ethyl Alcohol (MMEA) or commonly known as alcoholic beverages in Indonesia has been increasing. This is due to the increasing number of certain people's needs for alcoholic beverages, the increasing number of entertainment places that provide these drinks, such as clubs, cafes, bars, discotheques, and so on ranging

¹ Siswanto Sunarno, *Hukum Pemerintahan Daerah di Indonesia* (Jakarta: Sinar Grafika, 2006).

from low to high alcohol content. Alcoholic beverages are drinks that contain ethanol. Ethanol is a psychoactive substance which when consumed causes a decrease in consciousness. Drinks containing ethanol are produced from distillations produced by fermenting grains, fruits or vegetables.²

According to the Regulation of the Minister of Trade of the Republic of Indonesia Number 120 of 2018 concerning Control and Supervision of the Procurement of Circulation and Sales of Alcoholic Beverages, article (1) states that alcoholic beverages are drinks containing ethanol or ethyl alcohol (C₂H₅OH) which are processed from agricultural products containing carbohydrates by fermentation and distillation or fermentation without distillation.³ The negative impacts of alcoholic beverages in terms of health are physical disorders, mental disorders, disturbances to public security and order, as well as causing physical and spiritual health problems.⁴

The misuse and uncontrolled circulation of alcoholic beverages can cause disturbances to public peace and order. To overcome these problems, it is necessary to supervise and control the circulation and sale of alcoholic beverages. It was recorded that a number of victims fell because this drink was often used as a drink for traditional events or as a fun drink because this drink turned out to cause an addictive effect. Alcohol if consumed in excess can cause disease.

In Islam, there are many verses and hadiths that strictly forbid its adherents to consume alcoholic beverages. This is because Islam views a minimum of alcohol as a major factor in the emergence of crime. Such as causing enmity and hatred between fellow human beings. Preventing someone from getting closer to Allah SWT, and blocking the heart from the light of wisdom and most importantly because it is an act of Satan. This is in accordance with the word of Allah SWT in the Qur'an Surah Al-Ma'idah 90-91 which means:

*O you who believe! Verily, drinking, gambling, (sacrificing for) idols, and lucky draw with arrows, are heinous acts and include the actions of the devil. So stay away from them so that you may be successful. (Q.S. Al-Ma'idah/5: 90)*⁵

Departing from the background, this study will discuss how to control the permit for selling alcoholic beverages Medan City in accordance with the Medan Mayor Regulation Number 12 of 2011.

LITERATURE REVIEW

General Overview of Medan Mayor Regulation regarding Licensing of Alcoholic Drinks Sales Permits Medan Mayor Regulation No. 12 of 2011 states that the implementation of Medan City Regional Regulation No. 15 of 1998 concerning Levies for Permits for Selling Alcoholic Drinks is submitted to the Medan City Industry and Trade Office.

Business locations that may be granted a license for selling alcoholic beverages Medan City in Article 6 of the Regulation of the Mayor of Medan No. 12 of 2011, are specifically on:

- a. 3 (three) star hotels to 5 (five) star hotels.
- b. Bar, Discotique, Karaoke, Pub and Night Club.⁶

² Aminudin, *Bahaya Alkohol Bagi Kesehatan* (Jakarta : Quadra, 2010), p. 8.

³ Regulation of the Minister of Trade of the Republic of Indonesia Number 120 of 2018.

⁴ Aminudin, *Bahaya Alkohol Bagi Kesehatan* (Jakarta : Quadra, 2010), p. 18.

⁵ Ministry of Religion RI, *Al-Qur'an & Terjemahan*, (Semarang: CV. Al Wash, 2006), Q.S Al-Ma'idah/5: 90.

⁶ Regulation of the Mayor of Medan Number 12 of 2011 concerning the Implementation of Regional Regulation of the City of Medan Number 15 of 1998 concerning Levies for Permits for Selling Alcoholic Drinks.

The Prohibition of Selling Alcoholic Drinks in Article 7 paragraph (1) of Medan Mayor Regulation No. 12 of 2011 says: "It is forbidden to sell alcoholic beverages outside the location as referred to in Article 6 of Medan Mayor Regulation No. 12 of 2011,"

Article 7 paragraph (2) of the Regulation of the Mayor of Medan No. 12 of 2011 then states: "It is forbidden to give permits for the sale of alcoholic beverages at the locations as referred to in article 6 where the distance of the business location is less than 100 meters from places of worship, hospitals and government offices."

Then the Medan Mayor Regulation No.12 of 2011 there was a change in function which was clarified in the Medan Mayor's Regulation Number 3 of 2017 concerning the Implementation of Delegating Part of the Mayor's Authority to the Medan City Investment and One Stop Integrated Service Office in the implementation of government affairs. Subsequently, there was a second, third and fourth amendment which was clarified in the Regulation of the Mayor of Medan Number 91 of 2017 concerning the fourth amendment of the Regulation of the Mayor of Medan Number 33 of the Regulation of the Mayor of Medan Number 12 of 2011 concerning the Implementation of the Regional Regulation of the City of Medan Number 15 of 1998 concerning Retribution for the Permit for Selling Beverages Alcoholic.

Considering that the implementation of government affairs related to the implementation of the delegation of part of the authority of the Mayor carried out by the Medan City One Stop Service and Investment Service which has been determined based on the Medan Mayor Regulation Number 3 of 2017 concerning the Implementation of the Delegation of Part of the Mayor's Authority to the Investment Office And Medan City One Stop Service in the Implementation of Government Affairs, as amended several times, most recently by Medan Mayor Regulation Number 75 of 2017 concerning the Third Amendment to Medan Mayor Regulation Number 3 of 2017 concerning the Implementation of Delegating Part of the Mayor's Authority to the Investment Office And Medan City One Stop Service In the Implementation of Government Affairs, it is necessary to make changes in terms of effective implementation arrangements in order to realize fast, easy, cheap, transparent, definite, and affordable services carried out by a integrated licensing services.⁷

Permission

N.M. Spell and J.B.J.M. Ten Berge said that a permit is an agreement from the authorities based on laws or government regulations to in certain circumstances deviate from the provisions of the statutory prohibition (permission in the narrow sense) based on what Spelt and ten Berge said, in a permit it can be understood that a party can't do anything unless it's allowed. That is, the possibility for someone or a party is closed unless permitted by the government. Thus, the government binds its role in the activities carried out by the person or party concerned.⁸

Licensing according to the legislation that has been established, always contains important provisions that prohibit community members from acting without permission. In connection with these provisions as a consequence, in the context of enforcing the law in question, it is also equipped with provisions for sanctions. This sanction is the most

⁷ Medan Mayor Regulation Number 91 of 2017 concerning the fourth amendment to the Medan Mayor Regulation Number 3 of 2017 concerning the Implementation of Delegating Part of the Mayor's Authority to the Medan City Investment and One-Stop Integrated Service Office in the Implementation of Government Affairs.

⁸ Philipus M. Hadjon, *Pengantar Hukum Administrasi Indonesia* (Yogyakarta: Gadjah Mada University Press, 2005), p. 127.

important closing part that is fair in law, including administrative law, because every statutory regulation that contains orders or prohibitions, if not accompanied by sanctions, then the effectiveness of these regulations no longer has coercive power. In connection with the foregoing, as emphasized by Sjachran Basah⁵¹ that sanctions are the most important part in every law, the orders and prohibitions contained in each law, have no meaning if they do not have the power of coercion to be implemented.

Procurement of Alcoholic Drinks

The Ministry of Trade (Kemendag) relaxes the Regulation of the Director General of Domestic Trade (Directorate General of Domestic Trade) Number 04/PDN/PER/4/2015 concerning Technical Guidelines for the Implementation of Controlling the Circulation and Sales of Class A Alcoholic Beverages.⁹

Class A alcoholic beverages are no longer allowed to be traded in minimarkets or other retail stores on the grounds of protecting the morale of the younger generation. After 5 months of implementation starting from April 16, 2015 to November 2015, the sale of malt-based beverage products is likely to reopen along with deregulation initiated by the government. According to Rachmat Gobel, the "policy initiator" stated that moral reasons were the main basis for the issuance of the regulation, changes to ministerial regulations were made to maintain the morale and health of the younger generation. However, the implementation has not been long enough, the regulation has become one of the government's economic policies to increase people's purchasing power, industrial competitiveness, and investment in the midst of Indonesia's economic downturn.

Minister of Trade Regulation (Permendag) 06/M-DAG/PER/1/2015 has drawn both support and criticism. This new regulation replaces Permendag No. 20/MDAG/PER/4/2014 concerning Control and Supervision of the Procurement, Circulation and Sales of Alcoholic Beverages which prohibits minimarkets and retailers from selling alcoholic beverages with alcohol content below and/or up to 5% or types of beer.

RESEARCH METHODS

According to Sugiyono (2007), the research method is basically a scientific way to obtain data with certain goals and uses. Based on this, there are four keywords that need to be considered, namely the scientific method, data, purpose and usability.

The main data sources in qualitative research are observations, interviews, documents (official or personal documents), and photographs. Primary data, namely data that is allowed directly from the source through interviews with informants or informants. This data collection is intended to determine the factors that cause this case to occur. Secondary data, namely data obtained from official documents, books related to the object of research, research results in the form of reports, theses, dissertations, and laws and regulations.

In this study, researchers used observation guidelines so that it would be easier for researchers to observe and obtain data information. 12 of 2011 on the sale of alcoholic beverages Medan City.

RESULTS AND DISCUSSION

In the implementation of the issuance of permits for the sale of alcoholic beverages in Medan City, Mayor Regulation No. 12 of 2011. The main step taken in the formation of

⁹ <http://dpmpstsp.bulelengkab.go.id/> quoted on October 22, 2020.

laws and regulations in this case is the mayor's regulation must be in line with the principles of community life as wide as possible. This means, inducing various values and norms that live in the community and then being used as much as possible in order to achieve the greatest justice.

This is in line with d'Anjo's opinion as quoted by Sabian Ustman in his book *Living Law*: "...People do not make laws by sitting in one room and then thinking about what laws to make. According to d'Anjo it is a long process that begins deep in the reality of people's lives...(Ustman, 2007).

Mayor Regulation No. 12 of 2011 concerning levies for permits for selling alcoholic beverages in Medan City in Chapter I article 1 states that: "The implementation of Medan Regional Regulation Number 15 of 1998 concerning Retribution for Permits for Selling Alcoholic Beverages is submitted to the Head of the Department of Industry and Trade of Medan City."

In line with the research, it was found facts on the ground that the Department of Industry and Trade of the City of Medan has been separated into two service offices, namely the Department of Industry and the Department of Trade. Then in 2017 all licensing functions from the Industry Service and Trade Office were delegated or the same as taken over to the Medan City Investment and One Stop Integrated Service Office, on the basis of Medan Mayor Regulation Number 76 of 2017 and later replaced by Mayor Regulation No. 91 of 2017 the Investment Office regarding the Fourth Amendment to Medan Mayor Regulation Number 3 of 2017 concerning the Implementation of Delegating Part of the Mayor's Authority to the Medan City Investment and One Stop Integrated Service Office in the Implementation of Government Affairs.

Furthermore, Mayor Regulation No. 12 of 2011 concerning levies for permits for selling alcoholic beverages in the city of Medan in Chapter II article 2, it clearly states the procedures for obtaining permits and the authority to sign that:

The procedure for obtaining a Permit for Selling Alcoholic Drinks as regulated in Article 4 of the Medan City Regional Regulation Number 1 of 1998, namely by submitting a letter of application with a stamp duty of RP.6.000, - (six thousand rupiah) addressed to the Head of the Medan City Industry and Trade Office with complete the following requirements:

- a. Fill in the Application Letter.
- b. Attach a photocopy of your ID card.
- c. Attach a photo measuring 3 x 4 cm = 2 sheets.
- d. Attach a photocopy of Land and Building Tax (PBB) last year.
- e. Attach a local Lurah Certificate known to the Camat.
- f. Attach other Permits related to the place of business.

According to the facts in the field regarding the direct seller of alcoholic beverages class B and/or C at the Medan City Investment and One Stop Integrated Service Office, it describes a direct seller of alcoholic beverages to be drunk at a place, hereinafter referred to as direct seller, is a company that sells alcoholic beverages to end consumers. to drink directly at the designated place. Then the direct sale of alcoholic beverages of Class B and C to be drunk in places under the authority of the Regency/City is only given for the business fields, namely:

- a. 3 (Three), 4 (Four) and 5 (Five) Star Hotels;
- b. Restaurant; and
- c. Bars.

In line with the Mayor's Regulation No. 12 of 2011 concerning levies for permits for selling alcoholic beverages in Medan City in Chapter IV article 6 regarding locations

where permits for selling alcoholic beverages can be reported. Medan Mayor Regulation Number 12 of 2011 concerning Implementation of Medan City Regional Regulation Number 15 of 1998 concerning Retribution for Permits for Sales of Alcoholic Beverages reads:

- a. 3 (three) star hotels up to 5 (five) star hotels.
- b. Bar, Discotique, Karaoke, Pub and Night Club.

The Medan City Investment and One Stop Integrated Service Office has temporarily postponed the Licensing & Non-Licensing Services face-to-face starting on April 1, 2020 to prevent the spread of Covid-19 by notifying business actors who wish to submit Licensing/Non-licensing application documents, legalizing permits or others that are still manual (offline) can be done by sending via post/delivery service to the correspondence address of the Investment Office and PTSP Medan City Jl. Gen. Besar Abdul Haris Nasution No.32, Second Floor, Postal Code 20143. Licensing/Non-licensing system seeks to be integrated electronically "Online Single Submission" (OSS). Electronic licensing or OSS is a business license issued by the OSS institution for and on behalf of the minister, head of the institution, governor, or regent/mayor to business actors through an integrated electronic system with the aim of making it easier.

Regulation of the Mayor of Medan Number 12 of 2011 concerning the Implementation of Regional Regulation of Medan City Number 15 of 1998 concerning Levies for Permits for Sales of Alcoholic Drinks, the management of various business permits, both prerequisites for conducting business licenses and operational permits for business operations at the central or regional level with a commitment fulfillment mechanism permit requirements.

The Medan City One Stop Integrated Service and Investment Service also attaches technical requirements for the sale of Class B and/or Class C alcoholic beverages, attaching:

- a. Copy of approval letter for Commitment to Business License for Tourism Business Registration (TDUP) [Hotel, Bar, Restaurant];
- b. Copy of Tourism Business Certificate from an Accredited Tourism Business Certification Agency;
- c. A copy of the letter of appointment as a direct seller of Group B/C alcoholic beverages from a Distributor/Sub Distributor registered with the Ministry of Trade of the Republic of Indonesia;
- d. Facts of Integrity of Alcoholic Beverage Trade Sales;
- e. Copy of Taxable Goods Entrepreneur Identification Number (NPPBK).

With a commitment time of 10 days since the commercial/operational permit is issued by the OSS (Online Single Submission) Institution, and a completion time of 5 days after the application is received completely and correctly. The validity period is while running a business/activity and with free or free management fees.

Mayor Regulation No. 12 of 2011 concerning levies for permits for selling alcoholic beverages in the city of Medan, article 4 states: "For the challenge of the permit as referred to in Article 3, the Medan City Industry and Trade Office is authorized to quote the levy deposited into the Medan City Government Treasury."

According to Mayor Regulation No. 12 of 2011 concerning levies for permits for selling alcoholic beverages in Medan City regarding the prohibition, it is emphasized in Chapter V article 7 paragraph (1) which states that: "It is forbidden to sell alcoholic beverages outside the location as referred to in Article 6."

Furthermore, in Article 7 paragraph (2) which reads: "It is prohibited to grant a permit for the sale of alcoholic beverages at the location as referred to in Article 6 where the

distance of the business location is less than 100 (one hundred) meters from places of worship, hospitals and government offices."

Then Mayor Regulation No. 12 of 2011 concerning retribution for permits for selling alcoholic beverages in Medan City regarding guidance and supervision is explained in Chapter VI article 8 paragraph (1) which reads:

"Medan City Department of Industry and Trade and Regional Apparatus Work Units (SKPD) which are technically related to licensing of alcoholic beverage sales places are obliged and responsible for providing guidance and supervision."

Regulation of the Mayor of Medan Number 12 of 2011 concerning the Implementation of the Regional Regulation of the City of Medan Number 15 of 1998 concerning Retribution for Permits for the Sales of Alcoholic Beverages.

Then it is explained in the Regulation of the Mayor of Medan Number 12 of 2011 article 8 paragraph (2) which reads: "In the context of fostering and monitoring as referred to in paragraph (1), every permit issued must be reported periodically to the Mayor of Medan."

To obtain an Alcoholic Beverage Trading Business Permit (SIUP-MB), the provisions regarding the requirements and procedures for controlling the permit for selling alcoholic beverages are regulated in a Mayor Regulation. After obtaining the SIUP-MB, the place where the alcoholic drink is sold has been declared legal in the eyes of the law. Or in other words, it is stated that it is legal to sell alcoholic beverages in Medan City.

As stated in the results of interviews with alcoholic beverage sellers who have been selling in the Pasar Tiga area for a long time and their customers are from outside the city of Medan also said:

"If you don't have permission to go to any department at this place, because you sell, sometimes there are parties from the protective apparatus who sometimes ask for a share in terms of money, for example, or the drink itself, that's how it is. because if you have to get permission, the process is complicated, the deck here and there is complicated. Moreover, taking care of anything in our country is indeed complicated and it costs a lot of money. Mom needs money too, so I'm just selling it, just selling it, deck." .

For the problem of selling alcoholic beverages, as long as I did research for the samples I took, no one had a permit for a place to sell alcoholic beverages in accordance with the contents of the Regulation of the Mayor of the Regulation of the Mayor of Medan Number 12 of 2011 concerning the Implementation of the Regional Regulation of the City of Medan Number 15 of 1998 concerning Retribution Medan Alcoholic Beverage Sales Permit or it can be said that the sellers of alcoholic beverages are selling alcoholic beverages illegally.

CONCLUSION

The implementation of the issuance of levies for selling alcoholic beverages in the city of Medan is that it has not been carried out properly and properly. Because there are still many sellers of alcoholic beverages who do not have a business license for the reason that the sellers of alcoholic beverages do not want to be bothered by the processing of permits for the sale of alcoholic beverages. And if they are raided by officers, they have a deck (law enforcement officers) who can help them.

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