

Law Enforcement On Agents Assignment/Transfer Tube Gas Subsidies To Non LPG Subsidies

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Abstract. The problems of this study are: law enforcement against businesses diversion / transfer of LPG gas cylinders subsidized to non-subsidized according to the Law of Legal Metrology and Consumer Protection which handled by Special Criminal Investigation Directorate Central Java Police and barriers faced by the Special Criminal Investigation Directorate Central Java Police to businesses diversion / transfer of LPG gas cylinders subsidized to non-subsidized and solutions.

The method used by researchers is normative juridical law approach and specification in this study were included descriptive analysis. Eventhough sources and types of data in this study are primary data obtained from field studies with interview Central Java Police investigators Ditreskrimkus, and secondary data obtained from the study of literature relating to the theory of the legal system.

Based on the results of research that law enforcement against criminal cases the transfer of gas in gas cylinders subsidized gas cylinder non-subsidized conducted by the Police Directorate of Special Criminal Investigation Police Central Java starting from reports from the public or the findings of its own from the police, subsequently reduced to a letter of assignment to conduct an investigation, and then do a degree case to begin their investigation. Constraints: the views of the legal system, structure, substance and legal culture. The solution is to provide the sanction of the crime of diversion of gas, so that the person must have a deterrent effect and does not make the crime of diversion of gas from happening again. In the event of transfer of LPG cylinder which disturb public, then the aggrieved community can make a complaint to the authorities.

Keywords : Law enforcement; business communities; Legal Metrology; Consumer Protection

1. Introduction

Unlimited human needs are always limited by the availability of resources to meet them. Limitations resulted opportunity fulfillment cost for men in determining the choice of the allocation of its resources. One of the problems of human limitations in the modern era is the fuel, especially fuel oil, it is a natural resource that can not be renewed, the conditions experienced by almost all countries in the world, including in Indonesia.³

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³<https://m.tempo.co/read/news/2007/07/25/055104384/konversi-minyak-tanah-ke-elpiji>, Downloaded on Monday, July 7th, 2019 at 08.30 pm

Implementation of legal metrology is an instrument of consumer protection.⁴ Standards and measurement is the object of setting legal metrology for example, is intended to provide consumer protection in the face of the practice of non-transparent and difficult to be checked by consumers such as in the areas of (1) filling fuel oil (BBM), (2) the establishment of a telephone bill, (3) rice sales, (4) the determination of electricity bills, water and gas. The accuracy and consistency of measurement can be guaranteed if there is regulation by the state or government. The standard is intended to create a market that is healthy and fair, especially for consumers.⁵ According to data from the Food and Agriculture Organization of the United Nations, for household expenses in Indonesia reached 45%, in China reached 39%, and in the United States reached 13%. Consumers should be protected from losses due to inaccurate measurement practices or fraudulent acts committed by businesses.

Based on historical facts, the policy in the field of oil and gas (oil) in Indonesia has undergone several changes in accordance with the conditions and political interests at the time the policy was made.⁶

Act 1945, Article 33 paragraph (2) and (3) stipulates that: Production branches which are important for the country and dominate the life of the people controlled by the state. Similarly, land and water and natural resources contained in it are controlled by the state and used for sebesarbesarnya prosperity and welfare.

Given the oil and gas industry is a strategic natural resources are not renewable controlled by the state and a vital commodity, which plays an important role in the supply of industrial raw materials, energy needs in the country, and a foreign exchange earner for the state, they must be managed optimally so that can be utilized as much as possible for the prosperity and welfare of the people.⁷ Government ensure the supply and distribution of fuel (oil) as a vital commodity affects the livelihood of the people in the entire territory of the Republic of Indonesia.

Based on the background of the problems mentioned above, it can be formulated the problem as follows: How can law enforcement against businesses diversion / transfer of LPG gas cylinders subsidized to non-subsidized according to the Law of Legal Metrology and Consumer Protection That Handle By Special Criminal Investigation Directorate Central Java Police? The obstacles are faced by the Special Criminal Investigation Directorate of the Central Java Police to businesses diversion / transfer of LPG gas cylinders subsidized to non-subsidized and what's the solution?

⁴John Brich, AR 2003, the Benefit of Legal Metrology for the Economy and Society, A Study for the International Committee of Legal Metrology, the International Committee of Legal Metrology, p. 16-17

⁵Alan Johnston, 2009, The Important of Metrology for Consumer Protection, Measurement Canada, Canada, p. 1

⁶Suyitno Patmosukismo, 2011, *Migas: Politik, Hukum & Industri, Politik Hukum Pengelolaan Industri Migas Indonesia dikaitkan dengan Kemandirian dan Ketahanan Energi dalam Pembangunan Perekonomian Nasional*, Fikahati Aneska, Jakarta, p. 3.

⁷Indonesia (a), the Law on Oil and Gas Law 22 of 2001, LN No. 136 of 2001, Supplement No. 4152, General Explanation.

Research Methods

This study using sociological juridical approach / Sociolegal Research, which in this study were carried out technical steps to follow the pattern of social science assessment in particular sociological and legal⁸, Sociological juridical research is leaning research is qualitative, based on primary data. Specifications research is descriptive. Analytical descriptive research is also a feature that is systematic, factual and accurate information on the facts particular characteristic that is contained in an object of research.

2. Results and Discussion

2.1 Business Actor Law Enforcement Against Diversion / Transfer of Gas LPG Subsidy To Unsubsidized accordance with the Regulation of Legal Metrology and Consumer Protection That Handle Special Criminal Investigation Directorate for the Central Java Police

Special Criminal Investigation Directorate of the Central Java Police consists of five Subdit, the Sub-Directorate I Indagsi, Sub-Directorate of Special Economic II, III Sub Corruption Sub-Directorate of Specific Crime IV and V Subdit Siber (Cybercrime). Subdit I Indagsi is Subdit that handles criminal act of trade and investment industry. One of the criminal cases that go to Subdit I Indagsi is the case of the transfer of 3kg LPG subsidy from government to non-subsidized LPG cylinder. Sub-Directorate of Special Criminal Investigation Directorate I Central Java police themselves have to handle cases of diversion of gas.

The transfer of LPG subsidy from government to non-subsidized LPG cylinder is by using illegal means of an unlawful activity. In the process gas using a measuring instrument that does not have a valid calibration mark. Thus the use of a tool that does not have a valid calibration marks an unlawful act. The transfer of illegally gas can enter as a criminal offense in accordance with the following provisions:

- Article 32 paragraph (1) in conjunction with Article 25, paragraph b of Law No. 2 of 1981 on the Legal Metrology.
- Article 62 paragraph (1) in conjunction with Article 8, paragraph (1) letter a and b of Law No. 8 of 1999 on Consumer Protection.

Law No. 2 of 1981 on Legal Metrology specifically governing the misuse of tools and scales mention peck prohibited. In the crime of diversion of gas has violated Article 32 paragraph (1) in conjunction with Article 25, paragraph b of Law No. 2 of 1981 on the Legal Metrology.

Article 25 of Law No. 2 of 1981 on the Legal Metrology: *Forbidden to have, put, show off, wear or told to wear: b. measuring tools, measure, weigh and or equipment that is*

⁸Soekanto, Soerjono. 1986. *Pengantar Penelitian Hukum*. UI Press, Jakarta. p.60

not marked invalid tera applicable or not accompanied by the certificate of ratification applicable, except as mentioned in Article 12 paragraph b of this Act;

Article 32 of Law No. 2 of 1981 on Legal Metrology: *Whoever acts listed in Article 25, Article 26, Article 27 and Article 28 of this Law shall be punished in jail forever 1 (one) year or a maximum fine of Rp. 1.000.000, - (one million rupiah).*

Performers pegalihan charging the gas in the gas from 3kg LPG cylinder subsidy from government to government non-subsidized gas cylinders are not in accordance with the size of 12kg net or net weight stated in the label or the label of the tube. This is because the same gas pressure between the gas lead tube of another tube may not fit into 12kg gas cylinders that have been filled gas. So in this case allows the gas filling does not correspond with a net weight stated in the label or the label of the tube. According to Mr. Edi Subeno UPTD Legal Metrology as the city, businesses in the 12kg LPG gas trade thr bleach then the contents should be in accordance with the provisions regarding allowable error limits (BKD).

The impact of the transfer of the gas itself can also lead to decreased quality of the tube so mengurangi level of safety for consumers or users. Entrepreneurs who produce or trade in goods and / or services that do not comply with the standards requisite in the provisions of the legislation and the net weight or net does not fit stated in the label or etiket goods as well as pegalihan LPG use tools that do not meet standard requirements and the net weight or net is not in accordance with etiket on gas cylinders, hence violating Article 8 of ActNo. 8 of 1999 on Consumer Protection and can in criminal imprisonment of five (5) years or a maximum fine of Rp 2,000 .000,00 (two billion rupiah).

Based on interviews with Aipda Bella Rochim⁹Law Enforcement Against Business communities Diversion / Transfer of Gas LPG Subsidy To Unsubsidized accordance with the Regulation of Legal Metrology and Consumer Protection That Handle By Special Criminal Investigation Directorate Central Java Police are investigators at the level of Special Criminal Investigation Directorate Central Java Police ensnare the criminal diversion of gas using Article 62 paragraph (1) in conjunction with Article 8, paragraph (1) a and b of Law No. 8 of 1999 on the protection kosumen and / or Article 32 paragraph (1) in conjunction with Article 25, paragraph b of Law No. 2 of 1981 on Legal Metrology.

Law enforcement conducted by investigators Special Criminal Investigation Directorate Central Java Police above the law enforcement through litigation and are in accordance with the procedure laid down in Act No. 2 of 2002 on the Indonesian National Police and the Regulation of the Indonesian Police No. 14 of 2012 on Crime Investigation management. Investigators take action against all criminal diversion of LPG subsidies to non-subsidized gas cylinders to the outside lane without any settlement of litigation.

⁹ Results of interviews with Aipda Bella Rochim *Ditreskrimsus* as the Central Java Police investigators, on August 28, 2019 at 11:15 pm

2.2 Obstacles Faced by the Directorate of Special Criminal Investigation Against Business Executors Central Java Police Diversion / Transfer of Gas LPG Subsidy To Unsubsidized And Solutions

Based on interviews with Bripka Ferrial Yudistira¹⁰As investigators Special Criminal Investigation Directorate Central Java Police that case the transfer of LPG subsidies being diverted to non-subsidized gas cylinders is one criminal act that goes on Subdit I Indagsi Special Criminal Investigation Directorate Central Java Police. In law enforcement against criminal acts of diversion of gas by the investigator Subdit I Special Criminal Investigation Directorate Central Java Police, do not walk easily. Law enforcement itself is done to achieve peace in the community. Law enforcement is a bridge that connects the law with legal purposes. Law if it is not enforced then the purpose of the law can not be fulfilled, in other words, the law should be implemented. Law enforcement is closely related to the legal system.¹¹, In the implementation of the law enforcement criminal offense gas diversion having some problems as seen from the legal system, structure, substance, and culture.

2.2.1. Substance Law

The substance of the law is the arrangement of the rules and regulations of how the institution should behave. The substance is a guide implementation of the law. By regulation, the structural components perform their duties. When viewed from the substance, the crime of diversion of gas experienced some constraints, namely:

In Article 25, paragraph b of Law No. 2 of 1981 on the Legal Metrology reads:

Forbidden to have, put, show off, wear or told to wear: measuring tools, measure, weigh and or equipment that is not marked invalid tera applicable or not accompanied by the certificate of ratification applicable, except as mentioned in Article 12 paragraph b of this Act;

Criminal provisions to be found in Article 32 of Law No. 2 of 1981, namely:

Whoever acts listed in Article 25, Article 26, Article 27 and Article 28 of this Law shall be punished in jail forever 1 (one) year or a maximum fine of Rp. 1.000.000, - (one million rupiah).

2.2.2. Legal structure

The legal structure is closely related to law enforcement, which is a component of the implementation of the legal structure of legal substance. Law enforcement through the court system through the process of the investigation phase, investigation, prosecution, and examination in court. Constraints law enforcement criminal offense is

¹⁰ Results of interviews with Bripka Ferrial Yudhistira As Ditreskrimsus Central Java Police investigators, on August 28, 2019 at 11:15 pm

¹¹Friedman. 2013. *Keperawatan Keluarga*. Gosyen Publishing, Yogyakarta, p. 17

the lack of effectiveness of the gas diversion imposition of criminal sanctions to perpetrators that aims to prevent the occurrence of other events.

2.3 Legal culture

Human attitude toward law and the legal system-beliefs, values, thoughts, and hope called a legal culture. No matter how good the quality of the legal substance made by regulatory authorities with the implementation of an orderly then also by the structure of the law will not work properly if the culture is not supported by law. Legal culture is closely related to public awareness of the law.

Solutions to overcome obstacles faced by the Directorate of Special Criminal Investigation Against Business Executors Central Java Police Diversion / Transfer of Gas LPG Subsidy To Unsubsidized are:

- Sanction of the crime of diversion of gas, so that the person must have a deterrent effect and does not make the crime of diversion of gas from happening again.
- In the event of a transfer of LPG gas cylinders are detrimental to society a lot, then the aggrieved community can make a complaint to the authorities. Like the case of the transfer of LPG discussed earlier, people make a complaint to the police for further action.
- Government agency officer assigned in coaching Legal Metrology conducting monitoring and surveillance are required to investigate the offenses specified in this Act.
- Investigations carried out according to the procedure prescribed by the Code of Criminal Procedure in force.
- The stoppage of certain activities that contributed to the loss of customers;

3. Closing

3.1 Conclusion

- Law Enforcement Against Business communities Diversion / Transfer of Gas LPG Subsidy To Unsubsidized accordance with the Regulation of Legal Metrology and Consumer Protection That Handle By Special Criminal Investigation Directorate Central Java Police is the law enforcement against criminal cases the transfer of gas in gas cylinders subsidized gas cylinder non subsidies conducted by the Special Criminal investigation Directorate police Central Java police started from reports from the public or its own findings of police, subsequently reduced to a letter of assignment to conduct an investigation, then made his case to start their investigation. After the investigation is done and when it will be put under suspect to the actor, performed the title first.
- Obstacles Faced By Special Criminal Investigation Directorate Central Java Police Against Business communities Diversion / Transfer of Gas LPG Subsidy To Unsubsidized And the solution is in the implementation of the rule of law the crime

of diversion of gas having some problems as seen from the legal system, structure, substance, and culture.

Solution:

- Sanction of the crime of diversion of gas, so that the person must have a deterrent effect and does not make the crime of diversion of gas from happening again.
- In the event of transfer of LPG cylinder which disturb public, then the aggrieved community can make a complaint to the authorities. Like the case of the transfer of LPG gas cylinders previously discussed, people make a complaint to the police for further action.
- Government agency officer assigned in coaching Legal Metrology conducting monitoring and surveillance are required to investigate the offenses specified in this Act.
- Investigations carried out according to the procedure prescribed by the Code of Criminal Procedure in force.
- The stoppage of certain activities that contributed to the loss of customers;

3.2. Recommendation

- Necessary and important cooperation between the Department of Legal Metrology and the police. This is due to Legal Metrology Institute Investigator civil servants do not have to perform law enforcement against criminal acts of diversion of gas. This cooperation is encouraged in order to prevent criminal acts expropriation LPG are not in accordance with the net weight or net in the label or etiket on the gas cylinder.
- Society as users of LPG gas cylinders should give priority to safety, comfort, and safety in the use of LPG gas cylinder. Society should be checked prior to use LPG gas cylinder. People are expected to be more active, if feel that their rights as consumers are violated by businesses that faith is not good, please give a report to the authorities in the interest and the common good.

4. References

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