



Supervision and Law Enforcement Efforts on Food Products Unfit for Consumption Based on Law Number 18 of 2012 concerning Food

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Abstract

The problem in this research is how to monitor the circulation of products that are not suitable for consumption as a form of consumer protection for the public. The aim of this research is to provide knowledge to the public as consumers so that they are always careful and alert when consuming food products. The research method used in this writing is Normative Juridical research. A juridical approach that is based on existing legal regulations or legislation. The conclusion from this research is that there are still many food products circulating in the community that contain food preservatives, namely formaldehyde, borax and synthetic dyes Rhodamine B and Methanil Yellow, which are often used as textile dyes, food products that do not include production dates and expiration dates. With the circulation of products that are not suitable for consumption and can cause health problems, it is quite disturbing for the public, so to overcome this condition, the government must be able to carry out supervision and must impose sanctions on business actors who violate statutory provisions.

Keywords: food, preservatives, supervision, law enforcement

Introduction

Food is the most important basic human need and its fulfillment is part of human rights guaranteed in the 1945 Constitution of the Republic of Indonesia as a basic component for creating quality human resources, this is in accordance with the basic considerations in the formation of the Law. Law Number 18 of 2012 concerning Food. Apart from that, the state also has the obligation to realize the availability, affordability and fulfillment of sufficient, safe, high quality and nutritionally balanced food consumption, both at the national and

regional levels evenly throughout the territory of the Unitary State of the Republic of Indonesia at all times by utilizing resources and institutions. and local culture (Ruslan, 2019).

On the one hand, the widespread phenomenon of circulation of various types of food products in society has benefits for consumers because food needs that suit their tastes and desires can be fulfilled and they are free to choose various types and qualities of food according to consumers' desires and abilities (Quintarti, 2020). The diversity of food products and dishes in Indonesia is a reflection of the rich combination of Indonesian culture. Abundant natural resources, a geographic structure dominated by the sea and a wealth of spices, make Indonesian cuisine diverse. All of this makes this country rich in culinary flavors, from meat, fish, vegetables to fresh spices (Triwidayati, 2020).

The development of the era of globalization and the era of industrialization has brought changes to people's lifestyles who prefer to consume fast food, people tend to experience changes in consumption patterns towards food patterns that are mostly served by business people rather than having to cook food at home (Ufrida & Harianto, 2022). Changes in culture and attitudes of people who are getting used to consuming food and drinks outside the home. This phenomenon is also supported by the increasing number of people who prefer to eat and spend time in places that provide culinary tourism or restaurants to buy and eat the various foods provided.

Currently, more and more food products are circulating among the public, flooding culinary sales centers in Indonesia, but not all of these food products meet safety, quality and nutritional requirements. Based on Law Number 18 of 2012 concerning food, food in circulation must meet safety standards, both quality and nutrition, determined by the Government. Safe and quality food is an essential need that has a big impact on human health. The World Health Organization (WHO) estimates that more than 200 types of diseases can arise from consuming unhealthy foods. Many types of food found in various food products circulating in the community contain food preservatives, namely formaldehyde, borax and synthetic dyes Rhodamine B and Methanil Yellow. The use of chemicals by food entrepreneurs who do not comply with regulations can be disruptive, detrimental and endanger human health (Budianto, 2011).

Apart from that, unhealthy foods are various types or ingredients of food that contain unbalanced nutrition. This type of food should not be consumed in excess. Generally, unhealthy foods only contain a few substances or a small amount of fiber that the body needs. The ingredients in this type of food are also dangerous. If unhealthy food is consumed excessively it will cause various negative impacts. The habit of consuming unhealthy foods can increase the risk of disease, hinder body development, reduce brain intelligence, reduce the function of body movements and can even cause death (Yudhi Novriansyah, Zahlimar, 2022).

Seeing the phenomenon in society that there are so many food products in circulation that can be obtained quickly for those who want or need them, while what is consumed is not necessarily suitable for the body and health, it is necessary to provide protection from the government. This protection is related to the duties and responsibilities of the state/government in maintaining and guaranteeing the welfare of its people in accordance with what is stated in the Preamble to the 1945 Constitution paragraph IV (Indonesia, 1945).

Supervision and Law Enforcement Efforts on Food Products Unfit for Consumption Based on Law Number 18 of 2012 concerning Food

Considering the very tight competition between business actors, the result is that consumer rights are sometimes violated, either intentionally or unintentionally, in order to seek profits and win the competition. The existence of globalization and free trade greatly influences the level of competition which is sometimes unhealthy. Sometimes just looking for big profits without looking at the consequences causes consumers to suffer losses, especially in the food trade sector. Many business actors commit fraud by adding dangerous ingredients to the food products they produce to avoid damage (Roida Nababan et al., 2021). The circulation of products that are not suitable for consumption is quite disturbing to the public. What is most worrying at the moment is that food and beverage businesses do not include expiration dates on food products and in fact, sometimes the dates listed are small and blurry, making it difficult for consumers to know. To overcome this condition, the government must not remain silent and must carry out supervision, provide protection to consumers and must be able to impose sanctions on business actors who violate food-related laws.

This is similar to what the Gorontalo District Health Service has done to check food samples during the holy month of Ramadhan at several Ramadan market locations in Gorontalo Regency to inspect and ensure that the food sold by traders does not contain dangerous ingredients. The results turned out to be carried out during inspections at a number of places. in Gorontalo Regency and the Food and Drug Supervisory Agency found that three food products, namely wet noodles and crackers, contained borax. Next, the results of the inspection of the product will be submitted as findings of food containing dangerous ingredients to investigators and if it is proven to contain dangerous ingredients, the perpetrator can be charged under the Food Law Number 18 of 2012.

Based on the description above, the author determines the problem formulation in this research, namely:

1. How are efforts to monitor the circulation of products that are not suitable for consumption as a form of consumer protection for the public?
2. How is law enforcement carried out against business actors who violate the provisions of laws and regulations regarding food?

Literature Review

Supervision is an act of evaluation and correction of the results achieved, with the aim that these results are in accordance with the plan. The essence of supervision is the act of assessing (testing) whether something has gone according to a predetermined plan. Through this supervision, errors will be found and ultimately these errors will be corrected and these errors will not be repeated (Muchsan, 1992). Supervision is basically completely directed at avoiding the possibility of deviation or retention of the goals to be achieved. Through supervision, it is hoped that it can help implement the policies that have been set to achieve the planned goals effectively and efficiently. Through supervision, an activity will be created that is related to determining or evaluating the extent of the work that has been carried out (Sujatmo, 1989).

Consumer protection is all efforts that ensure legal certainty to provide protection to consumers. The form of protection provided by the government is protection against the

circulation of food and drinks containing dangerous ingredients. Therefore, the government has provided legal protection for both consumers and business actors with the enactment of Law Number 8 of 1999 concerning Consumer Protection.

The Consumer Protection Law is not intended to prioritize the business of business actors, but instead encourages a healthy business climate, as well as the birth of companies that are strong in facing competition by providing quality goods and services.

Legal basis for consumer protection relating to the use of preservatives in food:

- 1) Law Number 8 of 1999 concerning consumer protection
- 2) Regulation of the Minister of Health of the Republic of Indonesia Number 722/ Menkes/ Per/ IX/ 1988 which has been refined with Ministerial Regulation Number 1168/ Menkes/ Per/ 1999 concerning food ingredients.
- 3) Republic of Indonesia Law Number 18 of 2012 concerning Food, especially in article 75 paragraph 1, states that: Every person who produces food for distribution is prohibited from using:
 - a. Food additives that exceed the specified maximum threshold; and/or
 - b. ingredients that are prohibited from being used as food additives.
- 4) Regulation Of The Minister Of Health Of The Republic Of Indonesia Number: 722/Menkes/Per/Ix/88 About Food Additives

Food is a basic human need that is needed at all times and requires proper and correct processing to be beneficial for the body, because food is very necessary for the body. Food and nutrition have a very, very important function for humans because it is a primary need and determines human survival. The right to food is the most important human right after life. Therefore, every human being has the right to adequate food, both in quality and quantity (Agustin, 2019).

Food safety is an important factor as a condition for producing good quality and nutritious food. This opinion is in line with Republic of Indonesia Government Regulation Number 28 of 2004 concerning food safety, quality and nutrition.

Law enforcement is an effort to realize legal concepts and ideas that society hopes to become a reality. Law enforcement is a process that involves many things. Satjipto Rahardjo emphasized that law enforcement is a specific form of implementing the law that exists in people's daily lives. Lawrence M. Friedman said that the benchmark for the success of law enforcement is related to: legal substance, legal structure and legal culture. Therefore, essentially law enforcement is a process of turning ideas or desires into reality. The legal thought or desire in question is the goal of creating and achieving justice, order and legal certainty.

Research Method

The research method used in this writing is Normative Juridical research. A juridical approach that is based on existing legal regulations or legislation (Henny, 2015). Normative legal research always focuses on secondary data sources. Secondary data in this research was obtained from primary legal materials, secondary materials and tertiary legal materials. In this research, secondary data is sourced as follows: Primary legal material sources, consisting of legislation related to the issues discussed in the research. Secondary sources of legal

Supervision and Law Enforcement Efforts on Food Products Unfit for Consumption Based on Law Number 18 of 2012 concerning Food

materials, consisting of books and previous research results. Tertiary legal material sources consist of articles, newspapers, magazines and others. The data analysis technique that the author used in compiling this article is qualitative analysis. Data analysis in this research uses qualitative analysis methods, in this case examining in depth the existing legal materials which are then combined with other legal materials, and combined with supporting theories and then general conclusions are drawn.

Result and Discussion

Efforts To Monitor The Distribution Of Products That Are Not Suitable For Consumption As A Form Of Consumer Protection For The Public

The monitoring mechanism for food products distributed by business actors to consumers is implemented by the Health Service and the Food and Drug Monitoring Agency (BPOM). Supervision is carried out in an integrated manner with the Health Service and the POM Center. So that the monitoring and guidance functions can run simultaneously, and the public can be protected from the distribution of food and drinks that do not have distribution permits, damaged and expired packaging. BPOM RI has the authority to carry out full spectrum drug and food supervision, starting from assessment before a product is permitted to circulate, including evaluation of the safety, benefits and quality of drug and food products, supervision after the product is permitted to circulate, enforcement, and community empowerment (Launde et al., 2020).

There are several stages that can be carried out, including:

- 1) Planning stage, including identifying existing problems, namely whether the food in circulation meets the provisions regarding the criteria for food that is suitable for consumption, for example identifying what % of food inspection results are expired or contain food additives.
- 2) Data Collection Stage, Health Service Officers will collect data on good food production methods for home industries including:
 - a. Process Control. In order to produce quality and safe products, the production process must be controlled properly. Control of the home industry food production process can be carried out in the following ways: Determining raw material specifications, Determining the composition and formulation of ingredients, Determining standard production methods, Determining the type, size and packaging specifications, Determining complete information about the product to be produced including the name. product, product date, expiration date and use of Food Labels. Food labels must be clear and informative to make it easier for consumers to choose, store, process and consume food. Food production codes are required for product recalls, if necessary.
 - b. Storage. Good storage can guarantee the quality and safety of processed food materials and products: Storage of materials and products, Storage of hazardous materials, Storage of labels and packaging, Storage of equipment, person in charge and type of food.
- 3) Implementation Phase, consisting of two stages, namely:

a. Directly

In principle, supervision of food is carried out by conducting local inspections, namely inspections carried out by the Health Service which are carried out by field officers directly at the place that is the target of the inspection. This form of inspection is an effective method because in this way the actual situation at the location will be known. At the time of carrying out the examination, the officer concerned is provided with a letter of assignment that has been approved and signed by the Head of Service. In carrying out this direct stage, the Health Service has a direct cooperative relationship with officials at the provincial level, namely the Regional Police, District Prosecutor's Office and District Court to obtain the letter. permission/consent to conduct a search or seizure. Activities carried out by the Health Service in order to carry out this guidance and supervision include:

- (1) Licensing inspections or administrative inspections are carried out in an effort to enforce regulations. In conducting an inspection of permits for food production and distribution locations, the Health Service inspection officer has the authority to check the completeness of the permits held by the entrepreneur concerned. Licensing inspection includes inspection of production permits. If a production permit has not been found, the Health Service officers will do two things, namely destroy the food product and return the food product to the distributor provided with a product return letter.
- (2) Inspection at the production site includes inspection of the facilities used in the production process, inspection of hygiene at production facilities. In essence, this inspection aims to ensure that food is produced in accordance with good production methods for food as conditions for production suitability which include the suitability of the production site, cleanliness of the production site, inspection of the hygiene of employees and production sites, inspection of the materials used in production process, whether the materials used are prohibited by law or not, inspection of waste processing and/or disposal facilities, etc.
- (3) Inspection of storage and distribution facilities. When inspecting food, the inspection officer checks the labels on the food, the authenticity of the product, the expiry date, the food product, which is in storage places, distributors and sales places. Sampling and carrying out laboratory tests.
- (4) Sampling is carried out by the Health Service inspection officer in the event that there is suspicion about the food being examined by the officer. Health Service officers also have a special budget that is used to purchase suspected food from sales places when conducting secret inspections or when carrying out unannounced inspections of sales places. The food samples taken or purchased are then taken to the laboratory for laboratory testing. Laboratory testing is intended to test whether the food being sold contains prohibited ingredients, which are dangerous for public health and safety or not. Sampling is carried out not only on products that have been registered, have a registration number or on certain well-known brands, but sampling is also carried out on unbranded products, even snacks that are made and sold without any packaging, as well as on school children's snacks. Sampling was carried out randomly starting from shops, supermarkets, food stalls, stalls in

Supervision and Law Enforcement Efforts on Food Products Unfit for Consumption Based on Law Number 18 of 2012 concerning Food

traditional markets, and even snacks sold to children at school. If after carrying out laboratory testing it turns out that the food product being sold does not meet the suitability standards, the composition of the laboratory test results is different from the composition stated on the existing label or packaging label or is dangerous for public health, then the Health Service will issue a letter containing a warning to the perpetrator. The business concerned if the factory producing this warning is also supervised by the National Center for Drug and Food Control.

b. Indirectly

Apart from carrying out local supervision and inspections, the Health Service also has a special unit that provides consultations, complaints and counseling from the general public, namely the Consumer Services and Complaints Unit (ULPK). This unit provides special services to the community in the form of free consultations. The Consumer Services and Complaints Unit (ULPK) is a facility used by the Health Service as an effort to establish relations with the community so that people become more aware of the Health Service. This ULPK is also a means for providing guidance and counseling for community members, anyone is free to hold consultations with the Health Service . Apart from that, ULPK can also be used as a means of monitoring the Department of Health through the community.

Law Enforcement Against Business Actors Who Violate the Provisions of Legislation on Food

Currently there are many types of food circulating in society, which are produced by various types of businesses. There are also types of food produced by household businesses and community micro, small and medium businesses. The state, through its government officials, must be able to guarantee that every food product circulating in the community is safe for consumption. Because the public as consumers have the right to the safety of food products in circulation. As emphasized in Law Number 8 of 1999 concerning Consumers, that a consumer is every person who uses goods and/or services available in society for their own benefit, family, other people or other living creatures and not for trading. Every consumer has rights, including:

- a. the right to comfort, security and safety in consuming goods and/or services;
- b. the right to choose goods and/or services and obtain said goods and/or services in accordance with the exchange rate and conditions and guarantees promised;
- c. the right to correct, clear and honest information regarding the condition and guarantee of goods and/or services;
- d. the right to have opinions and complaints heard regarding the goods and/or services used;
- e. the right to obtain appropriate advocacy, protection and efforts to resolve consumer protection disputes;
- f. the right to receive consumer guidance and education;
- g. the right to be treated or served correctly and honestly and not in a discriminatory manner;
- h. the right to receive compensation, compensation and/or replacement, if the goods and/or services received are not in accordance with the agreement or are not as they should be;
- i. rights regulated in other statutory provisions.

The same thing is stated in Law Number 18 of 2012 concerning Food, safe food is the main prerequisite that must be fulfilled and every person who produces food for distribution is prohibited from using additional ingredients that are declared prohibited.

The government prohibits business actors from distributing or selling food that contains dangerous ingredients. The types of food products are:

- a. Contains ingredients that are toxic, dangerous or that could endanger human health or life;
- b. Contains contaminants that exceed the specified maximum threshold;
- c. Contains ingredients that are prohibited from being used in food production activities or processes;
- d. Contains dirty, rotten, rancid, decomposed materials, or contains diseased vegetable or animal materials or comes from carcasses;
- e. Manufactured in a prohibited manner;
- f. It's expired.

Food and Drug Supervisory Agency Regulation Number 21 of 2021 concerning the Implementation of a Processed Food Safety and Quality Guarantee System in Distribution Facilities Article 1 Number 4, emphasizes that: Food Safety is the conditions and efforts needed to prevent food from possible biological, chemical and material contamination. other things that can disturb, harm and endanger human health and do not conflict with people's religion, beliefs and culture so they are safe for consumption.

Government Regulation number 86 of 2019 concerning Food Safety states that every person who produces and trades food is obliged to meet food safety and food quality standards. Every food distributed in the territory of the Unitary State of the Republic of Indonesia (NKRI) that is produced domestically or imported for trade in labeled packaging must have a Food Safety and Quality Guarantee certificate in accordance with the type of food and/or business scale.

Regulation of the Minister of Health of the Republic of Indonesia Number: 722/Menkes/PER/IX/88 concerning food additives, which regulates permitted food additives, prohibited additives; production, import and distribution; prohibition ; authority; penalty.

Law of the Republic of Indonesia Number 18 of 2012 concerning Food confirms that:
Article 75

- (1) Every person who produces food for distribution is prohibited from using:
 - a. Food additives that exceed the specified maximum threshold; and/or
 - b. ingredients that are prohibited from being used as food additives.
- (2) Provisions regarding the maximum threshold and prohibited materials as intended in paragraph (1) are regulated by or based on Government Regulations.

Article 76

- (1) Every person who violates the provisions as intended in Article 75 paragraph (1) will be subject to administrative sanctions.
- (2) Administrative sanctions as intended in paragraph (1) are in the form of:
 - a. fine;
 - b. temporary suspension of activities, production and/or distribution;
 - c. withdrawal of food from circulation by producers;
 - d. compensation; and/or
 - e. license revocation.

Supervision and Law Enforcement Efforts on Food Products Unfit for Consumption Based on Law Number 18 of 2012 concerning Food

- (3) Further provisions regarding the type, amount of fines, procedures and mechanisms for imposing administrative sanctions as intended in paragraph (1) and paragraph (2) are regulated in a Government Regulation.

Based on the provisions of Law Number 39 of 2009 concerning Health, it is emphasized that if it does not meet standard provisions, health requirements, and/or endangers health, then the food is prohibited from being distributed, so it must be withdrawn from circulation, the business license revoked and secured/confiscated for use. destroyed in accordance with statutory provisions.

Apart from that, in the provisions of Article 64 number 19 of Law Number 11 of 2020 concerning Job Creation amending Article 140 paragraph (1) of the Food Law, it is emphasized that every person who produces and trades food who deliberately does not meet food safety standards which results in the emergence of Victims of human health problems are punished with imprisonment for a maximum of 2 years or a fine of a maximum of 4 billion.

Meanwhile, based on Law Number 8 of 1999 concerning Consumer Protection, it is emphasized that business actors are prohibited from producing and/or trading goods and/or services that do not meet or are not in accordance with the required standards and provisions of statutory regulations. Even though there are food safety and food quality standards set by the government for food and drinks that are bought and sold. So if a seller sells food that does not meet food safety and food quality standards, then he is also violating the provisions of the Consumer Protection Law and for his actions, he can be threatened with a maximum prison sentence of 5 years or a maximum fine of 2 billion.

Conclusion

Based on the results of the description above, it can be concluded that efforts to monitor the circulation of products that are not suitable for consumption as a form of consumer protection for the public are an obligation that must be carried out by the government as a form of responsibility in providing guarantees that every food product circulating in the community is safe for consumption. Supervision is carried out in an integrated manner with the Health Service and the POM Center. So that the monitoring and guidance functions can run simultaneously, and the public can be protected from the distribution of food and drinks that do not have distribution permits, damaged and expired packaging. Meanwhile, law enforcement against business actors who violate the provisions of laws and regulations concerning Food is by applying administrative sanctions as intended in Article 76 paragraph (1) of Law Number 18 of 2012 concerning Food in the form of: fines; temporary suspension of activities, production and/or distribution; withdrawal of food from circulation by producers; compensation; and/or revocation of permits. And if you produce and trade food that deliberately does not meet food safety standards which results in human health problems, you can be punished with a maximum imprisonment of 2 years or a maximum fine of 4 billion based on the provisions of Law Number 11 of 2020 concerning Job Creation and it also violates the provisions of the Consumer Protection Law and for his actions, he can be punished with a maximum prison sentence of 5 years or a maximum fine of 2 billion.

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