



TECHNIUM
SOCIAL SCIENCES JOURNAL

Vol. 24, 2021

**A new decade
for social changes**

www.techniumscience.com

ISSN 2668-7798



9 772668 779000

Regulation of food product labelling in Indonesia

Nur Husni Emilson, Made Warka, Krisnadi Nasution

Faculty Of Law, Universitas 17 Agustus 1945 Surabaya

nurhusniemilson@gmail.com

Abstract. This research uses normative legal research. The ratio legis of labeling food products in Indonesia in an effort to provide legal protection to the public is as regulated in Law Number 8 of 1999 concerning Consumer Protection, Law Number 7 of 1996 concerning Food, Government Regulation Number 69 of 1999 concerning Food Labels and Advertising, Decree of the Minister of Health Number 924/Menkes/SK/VIII/1996 concerning the Inclusion of "Halal" on Food Labels, Regulation of the Minister of Health of the Republic of Indonesia No. 180/Menkes.Per/IV/1985 concerning Expired Food which has been amended by Decree of the Director General of POM No. 0259 /B/SK/VIII/91. However, the implementation is not optimal. There are still obstacles in its implementation, where administrative sanctions are rarely imposed by the government on producers. The government still relies on consumer initiatives to blame it. The government seems to make this administrative sanction the *ultimum remedium*, because it's associated with labor and tax considerations. Of course, these two considerations shouldn't be a la and forgiving for entrepreneurs who harm consumers, as long as they are supported by sufficient evidence.

Keywords. labelling; regulation; food

Introduction

People basically really want food safety, namely food products that are nutritious and don't result in disruption of one's health. The reality is that there are many products that make people sick.(Alaniz-Salinas & Castillo-Montes, 2020) This is because the perpetrators are negligent in producing food, but there are also business actors who deliberately make mistakes so that they can get a lot of profit.

This shows that food security in Indonesia is still far from safe, as we often see food poisoning events that are happening nowadays. With this incident, resulting in consumers being in a weak and disadvantaged position, it's necessary to have rules that can bridge the interests of business actors and consumer interests that don't harm either party.(Kristiyanti, 2011)

The reason for the birth of labeling Indonesian products, is because until now there are still many foods circulating in the community that don't heed the provisions on labeling, causing public unrest. For example, trade in expired food, use of dyes that are not intended for food, formalin food, food containing preservatives, or other actions that result in very detrimental to the community, and can even threaten the health and safety of human life, especially for children generally done through fraud on food labels. Dishonest and/or misleading labels have a negative impact on the development of human health.

The label is a part of a product that carries verbal information about the product or seller. (Angipora, 2002) A label is usually part of the package, or it can be a label (identifier) affixed to the product. Meanwhile, Kotler stated that the label is a simple display on a product that is designed in a complex manner that is an integral part of the packaging. The label can only include the brand or information. (Kotler, 2017) Food label is any information regarding food in the form of pictures, writings, a combination of both or other forms attached to food, inserted into, affixed to or part of food packaging, hereinafter referred to as labels (Article 1 paragraph (3) Government Regulation No. 69 of 1999)

The problem faced by the community is that the information contained on the labels on the food and beverage products is unclear. (Ardiyanto et al., 2020) This is because business actors sometimes don't include labels in accordance with those that have been registered or listed in the laws and regulations. Without clear information, frauds can occur, so that people who consume these products are harmed. The problem that arises is regarding the legal ratio of food product labeling regulations in Indonesia.

Research methods

This research uses normative legal research. (Refina Mirza Devianti, 2021)

Research Results and Discussion

Ratio Legis for Food Product Labeling Regulations in Indonesia

Labels are useful for providing correct, clear and complete information regarding the quantity, content, quality and other necessary matters regarding the goods being traded. With the label, consumers will get correct, clear and good information regarding the quality, content, quality of circulating goods/services and can make choices before buying or consuming goods and services. The label is a part of a product that carries verbal information about the product or the seller. (Sesung & Hadi, 2021)

Legal provisions regarding labeling in Indonesia are spread out in various laws and regulations, including Law Number 8 of 1999 concerning Consumer Protection, Law Number 18 of 2012 concerning Food, Government Regulation Number 69 of 1999 concerning Food Labels and Advertising, Minister of Trade Regulation Number 22/M-DAG/PER/5/2010 concerning Obligation to Affix Labels on Goods, Law Number 36 Year 2009 concerning Health, Decree of the Minister of Health Number 924/Menkes/SK/VIII/1996 concerning the Inclusion of "Halal" on Food Labels, Regulation of the Minister of Health of the Republic of Indonesia Number 180/Menkes/Per/IV/1985 concerning expired food which has been amended by Decree of the Director General of POM No. 02591/B/SK/VIII/91.

Article 1 paragraph (3) Government Regulation Number 69 of 1999 stipulates that what is meant by food labels are: "Any information regarding food in the form of pictures, writings, a combination of both or other forms that is included with food, is inserted into, affixed to or is food packaging section. The same understanding is also contained in the provisions of Article 1 number 15 of Law Number 7 of 1996.

Furthermore, Article 2 of Government Regulation Number 69 of 1999 stipulates that:

- (1) Every person who produces or imports packaged food into the territory of Indonesia for trade is obliged to put a label on, inside, and or on the food packaging;
- (2) The labeling as referred to in paragraph (1) is carried out in such a way that it is not easily separated from the packaging, doesn't fade or is damaged, and is located on the part of the food packaging that is easy to see and read. Then in Article 3 of the Government Regulation Number 69 of 1999 it is determined that:

- (1) The label as referred to in Article 2 paragraph (1) contains information regarding the food in question;
- (2) Information as referred to in paragraph (1) shall at least:
 - a. Product name;
 - b. List of materials used;
 - c. Net weight or net contents;
 - d. the name and address of the party producing or importing food into the territory of Indonesia;
 - e. expiration date, month and year.

In relation to the problem of labels, especially food labels, the public needs to obtain correct, clear and complete information, both regarding quantity, content, quality and other things they need regarding food circulating in the market. (Reyes et al., 2019) The label is the information required by the legislation as regulated in Government Regulation Number 69 of 1999 concerning Food Labels and Advertisements, Minister of Trade Regulation Number 22/M-DAG/PER/2010 concerning the obligation to attach labels to goods. Information can have a significant impact on increasing the efficiency of consumers in choosing products and increasing their loyalty to certain products, so that it will provide benefits for entrepreneurs who meet their needs. The importance of delivering correct information to consumers about a product, so that consumers are not wrong about the description of a particular product. Submission of information to consumers can be in the form of representations, warnings, or in the form of instructions. (Bastian & Hadi, 2021)

Several provisions in the regulations related to this matter include: (1) Inclusion of halal labels. In the event that a food product bears the label "halal", then the business actor is responsible for its correctness. The truth of a "halal" label statement isn't only proven in terms of raw materials, food additives, or auxiliary materials used, but must also be proven in the production process, (2) Contains certain claims. In the event that a food product includes a label containing certain claims, then the business actor is responsible for the truth of the claim, (3) Benefits for health. The inclusion of a statement about the benefits of food for health can only be done if it's supported by scientific facts that can be accounted for and (4) Function as a medicine. The inclusion of the food concerned which can function as medicine is prohibited from being included in any form. (Gumilang et al., 2019)

Civil Liability of Business Actors Against Labeling of Food Products

The basis for the demands for accountability of business actors who violate the law can be seen in Article 1365 of the Civil Code which explicitly states that mistakes are the basis for liability. There are two kinds of liability in the study of civil law, namely errors and risks. A person is obliged to be responsible (or born an obligation to be responsible) because he is guilty, either in the form of error or negligence. This is what is called responsibility on the basis of fault. Thus, it can also be said that the provisions concerning Article 69 of the Food Law that are violated by business actors can be linked to Article 1365 of the Civil Code concerning unlawful acts. Article 1365 of the Civil Code is commonly known as an article on unlawful acts, which has the main elements, namely the existence of an act; there is an element of error; there is a loss suffered; and the existence of a causal relationship between errors and losses.

With regard to the claim for compensation, if there is an obligation to prove guilt, it means that the error is the basis for the birth of the obligation to take responsibility. The error is such that it is seen as a cause of loss, based on the actions of business actors that are not in accordance with food safety standards causing harm to consumers who consume food products that are

harmful to the health of consumers, which can be categorized as acts against the law. (Mardhatillah & Mahyani, 2019)

In relation to consumer protection, in particular determining the responsibility of business actors and consumers who suffer losses due to defective products, the facts surrounding the event that caused the loss must first be qualified as an act against the law. (Murphy & Sanderson, 2017) This means that it can be shown that the act of a business actor is an act that violates the law, whether it is a violation of consumer rights, or a business actor has committed an act that is contrary to his own legal obligations, violates decency, or has done something that is contrary to propriety and social life of the community in carrying out its business, especially propriety in terms of producing and distributing its products.

Criminal Liability of Business Actors Against Food Product Labeling

This criminal liability is intended to determine whether a person can be held accountable for his crime or not for the actions committed. (Corvalán et al., 2019) This means that if business actors commit acts against the law against labeling food products, they will be subject to criminal sanctions. Thus, a person gets a punishment depending on two matters, namely (1) there must be an act that is contrary to the law, and (2) against the perpetrator there is an element of error in the form of intentional and or negligence, so that the unlawful act can be held accountable to him. Criminal law also functions to enforce consumer protection law, but the Criminal Code itself doesn't mention the word consumer, but only implicitly. (Kartikasari et al., 2021) In the criminal provisions, the issue of consumer protection is as regulated in Articles 204 and 205 of the Criminal Code. This provision is mainly related to the right of consumers to obtain correct information. There are many criminal provisions with the aspect of consumer protection outside of the Criminal Code, such as the food law, health law, and other laws relating to business actors and consumers.

Conclusion

The ratio legis of labeling food products in Indonesia in an effort to provide legal protection to the public is as regulated in Law Number 8 of 1999 concerning Consumer Protection, Law Number 7 of 1996 concerning Food, Government Regulation Number 69 of 1999 concerning Food Labels and Advertising, Decree of the Minister of Health Number 924/Menkes/SK/VIII/1996 concerning the Inclusion of "Halal" on Food Labels, Regulation of the Minister of Health of the Republic of Indonesia No. 180/Menkes.Per/IV/1985 concerning Expired Food which has been amended by Decree of the Director General of POM No. 0259 /B/SK/VIII/91. However, the implementation is not optimal. There are still obstacles in its implementation, where administrative sanctions are rarely imposed by the government on producers. The government still relies on consumer initiatives to blame it. The government seems to make this administrative sanction the *ultimum remedium*, because it's associated with labor and tax considerations. Of course, these two considerations shouldn't be a la and forgiving for entrepreneurs who harm consumers, as long as they are supported by sufficient evidence.

The responsibility of business actors can be carried out with various instruments, namely civil law instruments, criminal law instruments and also administrative law instruments. Therefore, violations by business actors of the provisions of food labels can be subject to civil, criminal and administrative liability or sanctions. Civil and criminal sanctions are often less effective if they are not accompanied by administrative sanctions. These administrative sanctions are often more effective than civil or criminal sanctions because, first; administrative sanctions can be applied directly and unilaterally, secondly; Civil and/or criminal sanctions often don't have a "deterrent" effect for the perpetrators, the value of compensation and

penalties imposed may not be much compared to the benefits gained from the negative actions of producers. Not to mention the decision-making mechanism which is convoluted and requires a long process, so that consumers often become impatient. For civil lawsuits, consumers are faced with a bargaining position that is not always favorable compared to producers.

References

- [1] Alaniz-Salinas, N., & Castillo-Montes, M. (2020). Evaluation of the front-of-package warning labels of the Chilean food law by adults responsible for schoolchildren in the districts of la Serena and Coquimbo. *Revista Chilena de Nutricion*, 47(5). <https://doi.org/10.4067/S0717-75182020000500738>
- [2] Angipora, M. (2002). *Dasar-Dasar Pemasaran*. PT. Raja Grafindo Persada.
- [3] Ardiyanto, F., Raissa, A., & Michael, T. (2020). PENUNTUTAN GANTI RUGI KEHILANGAN BENDA ATAU BARANG TERHADAP PENGELOLA PARKIR YANG BERLINDUNG DI BAWAH KLAUSA BAKU. *Jurnal Hukum Magnum Opus*. <https://doi.org/10.30996/jhmo.v3i1.2947>
- [4] Bastian, J., & Hadi, S. (2021). BADAN HUKUM PUBLIK SEBAGAI JUSTITIABELEN DALAM PERADILAN TATA USAHA NEGARA. *DiH: Jurnal Ilmu Hukum*, 17(2). <https://doi.org/10.30996/dih.v17i2.5095>
- [5] Corvalán, C., Reyes, M., Garmendia, M. L., & Uauy, R. (2019). Structural responses to the obesity and non-communicable diseases epidemic: Update on the Chilean law of food labelling and advertising. *Obesity Reviews*, 20(3). <https://doi.org/10.1111/obr.12802>
- [6] Gumilang, D., Yudianto, O., & Setyorini, E. H. (2019). LEGALITAS SURAT KUASA YANG DITERBITKAN SEORANG BURON. *Jurnal Hukum Magnum Opus*. <https://doi.org/10.30996/jhmo.v2i2.2497>
- [7] Kartikasari, E., Warka, M., & Kongres, E. (2021). Penyelesaian Masalah Ketenagakerjaan Bagi Pekerja yang Mendapat Upah Tidak Layak di Masa Pandemi Covid-19 Secara Mediasi. *Jurnal Hukum Bisnis Bonum Commune*, 4(1).
- [8] Kotler, P. (2017). Philip Kotler: some of my adventures in marketing. *Journal of Historical Research in Marketing*, 9(2). <https://doi.org/10.1108/JHRM-11-2016-0027>
- [9] Kristiyanti, C. T. S. (2011). *Hukum Perlindungan Konsumen*. Sinar Grafika.
- [10] Mardhatillah, A. B., & Mahyani, A. (2019). BUKTI TIDAK LANGSUNG SEBAGAI DASAR HAKIM MENJATUHKAN PIDANA (Putusan Nomor: 777/Pid.B/2016/PN.JKT.PST). *Mimbar Keadilan*. <https://doi.org/10.30996/mk.v12i1.2167>
- [11] Murphy, B., & Sanderson, J. (2017). Soft law, responsibility and the biopolitics of front-of-pack food labels. *Griffith Law Review*, 26(3). <https://doi.org/10.1080/10383441.2017.1436371>
- [12] Refina Mirza Devianti, T. M. (2021). Accountability of mosque administrators against violation of Covid-19 health protocols in the mosque environment. *International Journal of Research in Business and Social Science (2147-4478)*, 10(2), 284–289.
- [13] Reyes, M., Garmendia, M. L., Olivares, S., Aqueveque, C., Zacarías, I., & Corvalán, C. (2019). Development of the Chilean front-of-package food warning label. *BMC Public Health*, 19(1). <https://doi.org/10.1186/s12889-019-7118-1>
- [14] Sesung, R., & Hadi, S. (2021). PERATURAN PRESIDEN NOMOR 33 TAHUN 2020 DALAM PERSPEKTIF PRINSIP OTONOMI DAN DESENTRALISASI. *DiH: Jurnal Ilmu Hukum*, 17(1). <https://doi.org/10.30996/dih.v17i1.4146>