

Legal Perspective Regarding the Authority of the Police for Confiscation of Evidence of Traffic Violations at Labuhanbatu Police

Lola Sefriany Pasaribu¹, Bernat Panjaitan², Nimrot Siahaan³

^{1,2,3}Faculty of Law, Universitas Labuhanbatu, Indonesia

pasaribulola@gmail.com, bernat.pjt@gmail.com, nimrotsiahaan4@gmail.com

Abstract

This Study aim for analyze Perspective law About Authority Police to Foreclosure Goods Proof Violation Police Traffic Labuhanbatu. This Study characteristic Normative - Empirical that is method combined research element law normative and supported with data or element empirical. This Method study is implementation provision from law normative (law) for incident law that happened in the middle society. The benefits will accepted from results study This is For now and use study This as basis and theory in matter know and analyze Perspective Law About Authority Police To Foreclosure Goods Proof Violation Police traffic Labuhanbatu, study study this is also expected can help the Enforcers law specifically Police Republic of Indonesia For now and strengthen authority in handle Violation Accompanied traffic with foreclosure Goods Evidence. Research results show that kindly Law Party Police the Republic of Indonesia is authorized do foreclosure goods proof Violation Traffic, This As Proof exists Violation So cross done driver vehicle motorized as has been arranged in Legislation.

Keywords

Authority; confiscation goods evidence; violation so cross



I. Introduction

Police The Republic of Indonesia is one Institution Enforcer Law in Indonesia. Duties and powers have clearly set in Constitution ie Article 14 paragraph 1 of the Law Number 2 of 2002 concerning Police Republic of Indonesia. As enforcer law, police is part from system Justice helpful crime public in enforce justice. As for Task tree Head oil an i.e. maintain security and order society; enforce law; and deliver protection, protection and service to society. In carry out task the point is in the Unit Traffic, then Head oil a Republic of Indonesia on duty Organize all activity in ensure security, order, and smoothness Then Cross on the road as well as maintain order and guarantee security common in the middle society.

Violation so cross on the street Already Certain There is penalty firm that will enforced. Where If There is violation So traffic made by the Driver vehicle motorized usually done action Direct that is form foreclosure such as SIM, Letters Vehicle or Vehicle motorized, carried out by the Unit Traffic as Goods proof exists something offense. As well as goods proof the will brought to trial. There is Foreclosure Goods related evidence something follow criminal the in a manner law must done, Because considered goods proof the can worn For prove is Correct goods evidence submitted to The judge That is results crime or goods proof That is tool For do crime. related goods proof this too will decided by the Judge, whether goods proof will returned to those who are entitled, or deprived For annihilated or deprived for the Country. But in general, for goods proof Violation Traffic after trial, then goods proof the will returned to owner.

As for related foreclosure goods proof violation already clearly stated that: Investigator the National Police of the Republic of Indonesia is authorized do confiscation, storage and safekeeping object suspected confiscation relate with follow criminal Road Traffic and Transport. Ordinances confiscation, storage and safekeeping object confiscation done according to the provisions of the Code Criminal Procedure Code (Article 270 of Law No. 22 of 2009). investigator in matter This must quick act and must quick report to chairman local district court For get letter permission especially formerly from chairman local district court To use obtain agreement, will but in matter violation Traffic investigator in nature very situation necessary and urgent when investigator must quick act and not Possible For get letter permission especially first, no reduce provision paragraph (1) investigator can do foreclosure only on object move In accordance with Article 38 of the Criminal Procedure Code which reads: (1) Confiscation only can carried out by investigators with letter permission chairman local district court; (2) Deep very situation necessary and urgent when investigator must quick act and not Possible For get letter permission especially first, no reduce provision paragraph (1) investigator can do foreclosure only on object move and for That must quick report to chairman local district court To use obtain his consent.

Law n g No. 22 of 2009 concerning Violation Road Traffic and Transport More carry on mentioned in Article 39 of the Criminal Procedure Code that : (1) Those who can imposed foreclosure are : a. object or bill suspect or the entire accused or part suspected obtained from action criminal or as results from follow criminal; b. thing that has used in a manner direct For do follow criminal or For prepare it; c. thing used For hinder investigation follow criminal; d. special thing made or reserved do follow criminal; e. other things that have connection direct with follow crime committed. (2) Things that are in confiscation because case civil or because bankrupt can also be confiscated for interest investigation, prosecution and trial case criminal, throughout fulfil provision paragraph (1).

Next, in nature provision Article 68 of the Act Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transport, put forward that: "Every Vehicle Motorized operated on the Mandatory Road be equipped with Certificate Number Vehicle Motor and Mark Number Vehicle motorized. (2) Certificate of Registration Number Vehicle Motorized as referred to in paragraph (1) contains Vehicle data Motorized, identity owner, no registration Vehicle Motorized, and validity period."

For that in effort know and analyze Perspective law About Authority Police to Foreclosure Goods Proof Violation Traffic (Study Polres Labuhanbatu). So research this given the title" Perspective law About Authority Police to Foreclosure Goods Proof Violation Police traffic Labuhanbatu."

Based on exposure the description given above, which becomes tree problem you want researched and discussed in writing This is How Perspective Law To Authority police to Foreclosure goods proof Violation Police Traffic Labuhanbatu. As for Objective Study this is for know View law to Authority police on Foreclosure goods proof Violation traffic at the Police Labuhanbatu.

II. Research Method

Study this characteristic Normative - Empirical. Study Law normative is study law is carried out with method researching material References or secondary data." (Soerjono Soekanto & Sri Mamudji: 2003) Whereas Study Law Empirical or According to Ronny Soemitro, sociology is study law with primary data or an obtained data direct from the source. (Ronny Hanitijo Soemitro: 2010)

So merger Study Normative-Empirical is something method deep research matter this combine element law later normative supported with additional data or element it's empirical. In method study normative-empirical as implementation in provision law normative (law) and is ak i from every incident law certain happened in something society.

III. Result and Discussion

Authority according to Mirriam Budiardjo is bodily power law, skills in carry out action law, which is action This held with Meaning raises consequence law, and covers vanishing and arising consequence law certain. Meaningful rights freedom in carry out or No carry out action certain or demand other party for carry out action certain. (Mirriam Budiardjo : 2013)

Authority normal interpreted as formal power. This Can just Power from Legislature , Executive . Authority is power to certain group of people or power to something field government (or field particular affairs) are unanimous, whereas Authority is power For do something follow law public.

Authority _ Investigators, as mentioned in Article 7 Paragraph (1) letter b to with letter j of the Criminal Procedure Code, namely:

- a. Accept report or complaint from somebody about exists something follow criminal
- b. Do action first at the time in place incident
- c. Ordered stop somebody suspect and examine sign identifier self suspect
- d. Do arrest , detention , search and confiscation
- e. Do inspection and confiscation letter
- f. Take print finger and shoot a
- g. Calling people for heard and examined as suspect or witness
- h. Bring in the necessary experts in relationship with inspection case
- i. Stage termination investigation
- j. Stage other actions according responsible law answer.

Foreclosure is action law in the investigation process carried out by investigators For control in a manner law on something goods, fine goods move nor goods No suspected move related tightly with follow moderate crime happened. (Hartono, 2010:182)

Furthermore M. Yahya Harahap argue that is meant foreclosure as has been determined by the Code Invite Criminal Procedure Code (KUHAP) is " Efforts forced by investigators For take or ' snatching ' something goods proof certain from somebody suspect, holder or storage . (Hara ha p, M. Yahya : 2007)

Understanding Foreclosure formulated in Article 1 Number 16 of the Criminal Procedure Code which reads: " Foreclosure is series action investigator For take switch and or save below mastery object move or No moving, shape or No form For interest proof in investigation, appointment and trial ".

Foreclosure interpreted as a process, way, deed confiscate or taking owned by private by the government without change loss. Enforcement process law authorize exists something action form confiscation. Therefore foreclosure is action law form taker diversion from mastery For temporary time goods from hand somebody or group For interest investigation, prosecution and trial.

Before do confiscation, investigator must obtain permission foreclosure from Chairman local District Court in accordance with Article 38 paragraph (1) of the Criminal Procedure Code. Request permission foreclosure the attached by Resume from results inspection that has been done so that clear exists connection direct g between goods to be confiscated with follow moderate crime investigated. If No accompanied with resumes

then application permission foreclosure the can was rejected by the Chairman Local District Court . investigator No allowed inspect or confiscate letters, books and other writings that are not is related objects with follow the crime concerned, except object or related letter or expected has used in follow criminal the. For That investigator must quick report to Chairman local District Court To use obtain approval.

Definition and Understanding follow Criminal Violation Traffic By Naning Ramdlon, is deed or action someone to the contrary with provision regulation legislation Then cross road. (Naning Ramdlon : 1990) Then what is meant with violation Then cross is deed or action someone to the contrary with provision regulation legislation Then traffic and transportation way and or regulation other.

As for handling case violation Then cross, same case like handling case crime in general Where involve Police and Investigators Civil Servant (PPNS), Attorney, and Court. Authority investigation in the Police and PPNS fields Road Traffic and Transport (LLAJ) with remote powers more Lots are at hand Police. Every violation Then cross will investigated by investigators based on authority . In quick event check For case violation Then cross road No There is minutes of examination (article 212 of the Criminal Procedure Code) so letter proof direct violation sent to trial by investigators. In letter ticket the has set time and place trial. Punishment for violator Traffic can form fine or whatever confinement.

Besides what have determined in the Criminal Procedure Code, Article 260 of the Law Republic of Indonesia Number 22 of 2009 concerning Road Traffic And Transport put forward that (1) In matter prosecution violations and investigations follow Criminal Investigator The Indonesian National Police other than those regulated in the Book of Laws Criminal Procedure Code and Statutes about Indonesian National Police, in the field Traffic and Road Transport authorities letter a. Stop, ban, or postpone operation and confiscation temporary Vehicle Proper motor suspected violate regulation passed cross or is tools and/ or results crime; as well as letter d. I do Foreclosure against the Permit Driving, Vehicle Motorized, cargo, Certificate Number Vehicle Motorized, Certificate Try Vehicle Motorized, and/ or marks pass the test as goods evidence. So that here writer conclude that Police according to Constitution own authority For do Foreclosure Temporary Goods Proof Violation traffic.

3.1 Authority Foreclosure Goods Proof Violation Traffic in Polres Labuhanbatu

Inspection Case violation Then cross regulated in CHAPTER XVI Part to 6 KUHAP Based on Article 211 of the Book of Laws Criminal Procedure Code (KUHP) regarding examination procedures case violation Then cross path, which is checked according to the inspection program This is case violation certain to regulation legislation Then cross road.

As for what is meant with " things Violation certain " against violation Then cross road based on Article 211 KUHP, itself can detailed as following :

- 1) Use road with way you can hinder , harm order or security Then cross or maybe _ raises damage road ;
- 2) drive vehicle motor that doesn't can show a license Driving (SIM), Certificate Vehicle motor (STNK), S vein your Q Test Legal vehicle or sign proof other required according to provision Legislation go n bag road or He can show it but expiration date Already expired;
- 3) Let or allow vehicle motorized driven by someone else who is not have a permit driving;
- 4) No fulfil provision Rules Legislation Then cross road about numbering, lighting, fixtures, loading vehicles and terms merger with other vehicles;

- 5) Let vehicle motorbike on the road without equipped with a number plate valid vehicle, accordingly with letter sign number the vehicle in question;
- 6) Violation to orders given by officers regulator Then cross way and or cue regulator Then cross road as well as signs or existing sign used road;
- 7) Violation to provision about allowable size and load, way raise and lower passengers and or method load and unload goods;
- 8) Violation to permission route, type permitted vehicles operate on the specified road;

So as Implications Application Regulation Legislation Number 22 of 2009 concerning Road Traffic and Transport in the Jurisdiction Polres Labuhanbatu can seen as results research and interviews directly by the Author On one Officer in Unit Police Traffic Labuhanbatu that is IPTU Yustina, SH, MH (Kaurmintu Sat Then Labuhanbatu Police). Here Writer ask, Is Traffic units Polres harbor stone have authority in foreclosure goods proof violation Then cross, then what to be base law! IPTU Yustina, SH, MH, replied: Yes, Traffic Unit Polres harbor stone have authority in foreclosure goods proof violation Then cross. As for who became base the law that is Constitution Number 22 of 2009 concerning Traffic and Road Transport and Government Regulations Number 80 of 2012 concerning Examination Procedures Vehicle Motorized d i way and prosecution Violation Road Traffic and Transport. More carry on according to IPTU Yustina, SH, MH that prosecution Violation Road Traffic and Transport is series actions taken by investigators Indonesian National Police or investigator Civil Servants in the field Road Traffic and Transportation against violation Road Traffic and Transport. (Article 1 paragraph 2 of Government Regulation Number 80 of 2012). As for action This as series action police in framework prevention, response, action to disturbance security, safety, order and smoothness Then organized traffic in period time, target, method act, engagement strength, and support source Power certain by some function police in form unit task. (Article 1 paragraph 5 of the Government Regulation Number 80 of 2012).

Authority investigator Republican National Police deep Indonesian Foreclosure Goods proof related violation So cross more clear can seen on Article 260 of the Law Republic of Indonesia Number 22 Year 2009 About Traffic and Road Transportation which has put forward that (1) In matter prosecution violations and investigations follow Criminal Investigator _ The Indonesian National Police other than those regulated in the Book of Laws Criminal Procedure Code and Statutes about Indonesian National Police , in the field Authorized Road Traffic and Transportation :

- a. Stop, ban, or postpone operation and confiscation temporary Vehicle Proper motor susedted violate regulation passed cross or is tools and/ or results crime;
- b. I do inspection on truth information related with Investigation follow crime in the field Traffic and Transportation;
- c. Ask information from Driver, owner Vehicle Motorized, and/ or Transport Company General;
- d. I do foreclosure against the Permit Driving, Vehicle Motorized, cargo, Certificate Number Vehicle Motorized, Certificate Try Vehicle Motorized, and/ or marks pass the test as goods evidence;
- e. I do prosecution to follow criminal violation or crime Traffic according _ provision regulation legislation;
- f. Create and sign _ inspection report;
- g. stop investigation If No there is Enough evidence;
- h. I do related detentions with follow criminal crime So Cross; and/ or
- i. I do other actions according law in a manner responsible answer.

Authority Police more carry on in Article 264, where in Article 265 posits that : Examination Vehicle Motorized on the Road as meant in Article 264 covers inspection :

- a) Permit Driving, Certificate Number Vehicle Motorized, Certificate Try Vehicle motor,
- b) Sign Number Vehicle Motorized, or Sign Try Vehicle motorized;
- c) Sign proof of passing the test for vehicle mandatory test;
- d) Physique Vehicle motorized;
- e) Power transport and/ or method transport goods; and/ or
- f) permission maintenance transport.

Interview results with nara source from Labuhanbatu Resort Police that is IPTU Yustina, SH, MH related Breach data Then cross 3 years last, 2020, 2021, 2022 as proof exists Violations committed by the Driver Vehicles and ever handled by the Unit Police Traffic Labuan Batu.

Breach data and Enforcement Immediately (Tilang) then cross 3 years last, 2020, 2021, 2022.

Table 1.

No.	Year	Type prosecution	
		ticket	Reprimand
1.	2020	6406	4227
2.	2021	3502	5605
3.	2022	2270	3084

Source : Unit Police Traffic Labuhanbatu

Note : in 2020 Total Violation Then cross Category ticket as many as 6406 Violations and 4227 Reprimands, in 2021 the number violation ticket as many as 3502 and Reprimand as many as 5605, that is There is Decline from year previously of 2904 violations Tickets, while in 2022 the number violation hit 2270 violations, which means experience decline return from in 2021 as many as 1232 violations.

As for Types Violation Frequent traffic in the region law harbor stone that is as following:

1. drive with Speed tall
2. Excess load on the vehicle
3. Completeness less vehicle maximum
4. No be equipped letters vehicle
5. No installed Belt safety
6. Violate Mark sign Traffic
7. Drive with Oppose current
8. Drive with Using HP
9. No wear a helmet
10. on a ride more from 2 persons
11. Light main No light up
12. And others.

More continue, Author ask What just be duties and powers traffic Polres Labuhanbatu in activity traffic? IPTU Yustina, SH, MH answer that The basis of the duties and authorities of the Republic of Indonesia National Police, especially the Traffic Unit, can be We meet including:

- a. Constitution Number 2 of 2002 concerning the State Police of the Republic of Indonesia;

- b. Undang-undang Nomor 22 tahun 2009 concerning Road Traffic and Transportation;
- c. Peraturan Kepala Kepolisian Nasional Nomor 2 tahun 2021 concerning the Organizational Structure of the Work Order Polres and Polsek This top update Peraturan Kepala Kepolisian Republik Indonesia Nomor 23 tahun 2010 concerning Arrangement Organization and Working Procedures at the Police Level Resort and Police Sector;
- d. Peraturan Pemerintah Nomor 80 tahun 2012 concerning Examination Procedures Vehicle Motorized On The Road And prosecution Violation Road Traffic And Transport.

How procedures carried out by the parties Traffic Unit Polres harbor stone in do action direct and do foreclosure goods proof violation Police Traffic Labuhanbatu? In the LLAJ Law Article 106 paragraph 5, it is stated that at the moment held inspection vehicle motorized on the road everyone driving vehicle motorized must show:

- a. Certificate Number Vehicle Motorized or Certificate Try Vehicle motorized;
- b. Permit Driving (SIM);
- c. evidence of passing periodic tests ; and/ or
- d. sign other valid evidence.

Provision Article 288 paragraph (1) of the Law Number 22 Year 2009 mention that everyone driving vehicle motorized on the road that is not be equipped with the STNK or STCK stipulated by the Indonesian National Police as meant in Article 106 paragraph (5) letter , convicted with criminal maximum imprisonment of 2 (two) months or the most fines IDR 500,000.00 (five hundred thousand rupiahs).

More continued, in the Past Law L cross A transport walk Article 260 paragraph 1 letter a, mentioned in matter prosecution violations and investigations follow Criminal Investigator Republic of Indonesia National Police, other than those regulated in the Book of Laws Criminal Procedure Code and Statutes about Republic of Indonesia National Police , in the field Traffic and transport road authorized stop, prohibit, or postpone operation and confiscation temporary vehicle proper motor suspected violate regulation passed cross or is tools and/ or results crime. Article 32 paragraph 6 of the Regulations Government Republic of Indonesia Number 80 of 2012 concerning Examination Procedures Vehicle Motorized in Streets and Enforcement Violation Road Traffic and Transportation, also mentioned other reasons for vehicles confiscated or arrested, namely:

- a. Vehicle Motorized No be equipped with Certificate Number Legal vehicle at the time done Inspection Vehicle motorized on the Road;
- b. driver No have a permit driving;
- c. happen violation on condition technical and requirements worthy road Vehicle motorized;
- d. Vehicle Motorized suspected originate from results follow criminal or used For do follow criminal; or
- e. Vehicle Motorized involved accident Then resulting traffic _ death of a person or wound heavy.

How to do it Unit Police Traffic Labuhanbatu in do foreclosure goods proof offender Then cross? As for the confiscation procedure goods proof offender Then cross carried out by the Unit Police Traffic Labuhanbatu that is with way:

1. Member Police carry out road check furthermore personnel inspect completeness vehicle motors and equipment driver;
2. Furthermore Officer give penalty form ticket with do foreclosure against SIM or STNK or Vehicle motorized;
3. Offender accept letter ticket as proof offense and evidence foreclosure goods evidence;

4. But at the moment This implementation ticket manually already No held Again at the Labuhanbatu Police Station whereas implementation of ETLE (*Electronic Traffic Law Enforcement*) yet is at the Police Labuhanbatu (Device Not yet available).

Is authority in do foreclosure goods proof violation Traffic carried out by units Then Lintas Polres Labuhanbatu during This Already in accordance with SOPs? So answered by IPTU Yustina, SH, MH, Yes. Already in accordance with SOPs Police Republic of Indonesia.

As for related with Factors What only causes many happen violation Then L cross in the region law Labuhanbatu according to IPTU Yustina , SH, MH among others:

- a. Still Low awareness public in passed cross.
- b. At a minimum amount personnel Police when compared to with Area, length path and amount the people in the jurisdiction The Labuhan Batu Police .
- c. Facilities and Infrastructure an unfinished road adequate.

What is the solution carried out by the Unit Then Lintas Polres Labuhanbatu For minimize violation Then cross made by Driver Vehicle in the region law Labuhanbatu?

- a. Carry out counseling orderly Then cross Good to students _ nor group public organized or not organized as form effort preemptive (coaching)
- b. Carry out patrol Then cross to locations vulnerable happening violation Then cross as form effort preventive (Prevention)
- c. Give reprimand humanist to violator Then cross as form repressive (enforcement) especially at the time This No exists prosecution with ticket.

IPTU Yustina, SH, MH, representing Unit Traffic Polres Labuhanbatu ordered For public related drive on the road highway that:

- a. Appeal to public regency Labuhanbatu and North Labuhanbatu to be orderly in passed cross especially at the moment drive vehicle motorized.
- b. Keep Safe Self and the safety of others in passed cross.
- c. Appeal Special to parents not to give permission to their still children Not yet Enough age For drive vehicle motorized (not yet have a SIM) because level emotional children and youth Still Not yet controlled at the time drive.
- d. obey regulation Then Lintas as well as cultivate orderly passed cross as need, safety is first and foremost.

So from results analysis and results interview writer with source person can concluded that investigator Police authorized For do Foreclosure to goods proof results violation So cross in accordance with those mandated by law.

IV. Conclusion

Police Republic of Indonesia in particular Field Unit So Lintasdan Road Transportation authorized do Action Directly (Tilang) and do foreclosure goods proof to violation Traffic as well No capable show , among other things : a) Certificate of Registration Number Vehicle Motorized (STNK) or Certificate Try Vehicle Motorized (STCK); b) Permit Driving (SIM); c) Proof of passing periodic tests ; and/ or d) Signs other valid evidence .

References

- Book of Laws Law Criminal (KUHP)
Book of Laws Criminal Procedure Code (KUHP)
Budiardjo , Miriam, (2013). Basics Knowledge Politics. PT Gramedia Main Library, Jakarta.
- Constitution Number 2 of 2002 concerning the State Police of the Republic of Indonesia
Government regulations Number 80 of 2012 concerning Examination Procedures Vehicle Motorized On The Road And prosecution Violation Road Traffic And Transport.
- Harahap, M. Yahya, 2007, Discussion Problems and application of the Criminal Procedure Code, Ray Graphics, Jakarta.
- Hartono, 2010, Investigation and Enforcement Law Criminal Through Approach Progressive, Sinar Graphics, Yogyakarta.
- Ramdlon , Naning , 1980, Exciting Awareness Community Law and Discipline Enforcer Law in Traffic , Science Development , Bandung.
- Regulation Head Indonesian National Police Number 2 of 2021 concerning the Organizational Structure of the Work Order Polres and Polsek Change over Regulation Head Republic of Indonesia National Police Number 23 of 2010 concerning Arrangement Organization and Working Procedures at the Police Level Resort and Police Sector
- Ronny Hanitijo Soemitro, 2010, Dualism Study Law (Normative and Empirical), Library Student, Yogyakarta.
- Soerjono Soekanto & Sri Mamudji, 2003, Research Law Normativ : Something Overview In short, PT. Grafindo King Persada, Jakarta.
- Und a ng- legislate Number 22 of 2009 concerning Road Traffic and Transportation