

Juridical Analysis of Alcoholic Drinks Regulation in Southeast Minahasa District in Economic Legal Perspective

Arce Kalalo, Feibe Engeline Pijoh, Lesza L. Lombok

Master of Law Study Program, Manado State University

Abstract

Southeast Minahasa Regency has an area of 730.62 Km² or 73,062 Ha, (South Minahasa Regency BPS) which is directly adjacent to East Amurang District and Amurang District of South Minahasa Regency to the north, with Langowan District of Minahasa Regency and the Maluku Sea to the east, with the Maluku Sea and Kotabunan District, Bolaang Mongondow Regency in the south, with Ranoyapo District and Kumelembuai District, South Minahasa Regency in the west. This type of research includes normative legal research by examining literature or secondary data by comprehensively analyzing primary legal materials and secondary legal materials, particularly focused on Juridical Analysis of Alcoholic Beverage Regulations in Southeast Minahasa Regency in the Perspective of Economic Law. The results of the study are presented in full, detailed, clear and systematic as scientific work.

Legal research is a process to find legal rules, legal principles, and doctrines to answer the legal issues at hand. In contrast to research conducted in science which is of a nature that tests the truth of whether or not a fact is caused by a certain factor, legal research is conducted to produce arguments, theories or new concepts as prescriptions in solving the problems at hand. If in descriptive science the expected answer is true or false, the expected answer in legal research is right, appropriate, inappropriate, or wrong. So far, regulations related to alcoholic beverages, both regulations issued by the central government and regulations issued by regional governments, are scattered in various laws and regulations in the form of Presidential Regulations, Candy and Regional Regulations. These various laws and regulations have not been integrated in the form of laws that specifically regulate alcohol-related beverages, and some of these regulations overlap with one another.

Key words: Juridical analysis, alcoholic beverages, Manado

INTRODUCTION

The right to exercise self-government as the joints of the people in a unitary state means nothing but autonomy, namely the right to organize and manage one's own household. Thus, the stronger the reason for the government in the composition of large and small regions according to Article 18 of the 1945 Constitution is none other than a government which is composed on the basis of autonomy. Thus, the 1945 Constitution is a strong foundation for implementing autonomy by giving broad, real and accountable authority to the regions.

Regulations regarding alcoholic beverages are currently regulated in various laws and regulations, starting from the law level to the regional regulation level. With the existence of various laws and regulations related to the regulation of alcoholic beverages mentioned above, it is expected that the control, supervision and prevention of alcoholic beverages can be properly controlled and supervised. However, the reality shows that it is difficult to carry out control and supervision from both the central government and regional governments. In addition, the spread of regulation on alcoholic beverages in various legal instruments in the form of legislation further proves that it has not been integrated and that there is still a lot of overlap between one regulation and another.

In particular, control and supervision of alcoholic beverages in Southeast Minahasa Regency has been regulated with the issuance of Regional Regulation (Perda) of Southeast Minahasa Regency Number 8 of 2017 concerning Control and Supervision of Raw Materials for Alcoholic Beverages which was formed with the consideration that alcoholic beverages in Southeast Minahasa Regency are one of the products that have economic value, it is necessary to control, supervise and overcome the distribution of alcoholic beverage raw materials.

In Southeast Minahasa Regency there are currently 2,974. hectares of plantation land for aren/seho trees and 1,257 people as farmers who produce drinks distilled from palm trees in Southeast Minahasa Regency. Most of these farmers (the majority) depend on their lives as stamp rat (traditional alcoholic beverage) farmers to support their families. Therefore, the government of Southeast Minahasa Regency is obliged to help improve the economy and prosper the mouse cap farmers and increase the Regional Original Income (PAD) of Southeast Minahasa Regency through arrangements,

Bernhard Limbong put forward two notions of a rule of law which include:

In principle, the authors agree with the definition of rule of law presented by the experts, but in the definition above, the definition of rule of law theory is not included. The rule of law theory is:

Basically the welfare state refers to the active role of the state in managing and organizing the economy, which includes the state's responsibility to ensure the availability of basic welfare services at a certain level for its citizens.

Husodo states that the welfare state is briefly defined as a country where the state government is considered responsible for guaranteeing a minimum standard of living welfare for every citizen.¹ Meanwhile, according to Esping-Anderson, the welfare state basically refers to the active role of the state in managing and organizing the economy which includes the state's responsibility to ensure the availability of basic welfare services at a certain level for its citizens. In general, a country can be classified as a welfare state if it has four main pillars, namely:²

¹Darmawan Triwibowo and Sugeng Bahagijo, 2006, Dream of a Welfare State, Jakarta: LP3ES, p.xv.

²Ibid, p.9.

- 1) *Social citizenship;*
- 2) *Full democracy;*
- 3) *Modern industrial relations systems;* And
- 4) *Rights to education and the expansion of modern mass education systems.*

The concept of the welfare state emerged as a reaction to the failure of the legal state concept (night watchman state). In the legal state there is the principle of limiting the role of the state and government in the political, economic and social fields. As a result, the state will end up miserable for its people.

The concept of utilitarianism developed by Jeremy Bentham is intended to explain the concept of happiness or well-being. Something that can cause extra happiness is something good. Conversely, something that causes pain is bad. Government actions must always be directed at increasing the happiness of as many people as possible (the greatest happiness principle).³

Methanol, known as methyl alcohol, wood alcohol or spirit, is a chemical compound with the chemical formula CH₃OH. Methanol is the simplest form of alcohol. At "atmospheric conditions" it is a light, volatile, colorless, flammable, and toxic liquid with a characteristic odor (smelling lighter than ethanol). Methanol is used as an anti-freezing coolant, solvent, fuel and as an additive for industrial ethanol.

The chemical reaction of methanol is burning in air and forming carbon dioxide and water. Flames from methanol are usually colorless, so care should be taken near burning methanol to prevent injury from invisible flames. Because of its toxic nature, methanol is often used as an additive for the manufacture of alcohol for industrial use.

It can be emphasized that law has a function to regulate people's lives in carrying out their activities including activities in the economic sector, so that through this arrangement a prosperous society can be realized in accordance with what is mandated by the goals of the Indonesian state as stated in the Preamble of the 1945 Constitution. Law is needed by the government as one of the foundations in developing the community's economy.

RESEARCH METHODS

3.1. Types of research

This type of research includes normative legal research by examining literature or secondary data by comprehensively analyzing primary legal materials and secondary legal materials. particularly focused on Juridical Analysis of Alcoholic Beverage Regulations in Southeast Minahasa Regency in the Perspective of Economic Law. The results of the study are presented in full, detailed, clear and systematic as scientific work.

Legal research is a process to find legal rules, legal principles, and doctrines to answer the legal issues at hand. In contrast to research conducted in science which is of a nature that tests the truth of whether or not a fact is caused by a certain factor, legal research is conducted to produce arguments,

³Edi Suharto, Maps and Dynamics of the Welfare State in Several Countries, What Lessons Can Be Learned to Develop Indonesia?. Paper presented at the Seminar on Reviewing the Relevance of Welfare State and Breakthroughs Through Decentralization-Autonomy in Indonesia, Yogyakarta Institute for research and Empowerment (IRE) and Jakarta Initiative Association, Gajah Mada University, Yogyakarta 25 July 2006, p. 5.

theories or new concepts as prescriptions in solving the problems at hand. If in descriptive science the expected answer is true or false, the expected answer in legal research is right, appropriate, inappropriate, or wrong. Thus it can be said that the results obtained in legal research already contain value.⁴

3.2. Data and Data Sources

This study uses secondary data which includes or originates from:⁵

1. Primary legal materials, namely binding legal materials;
2. Secondary legal materials, which provide an explanation of primary legal materials, such as draft laws, research results, works from legal circles, and so on;
3. Tertiary legal materials, namely materials that provide instructions and explanations of primary and secondary legal materials; examples are dictionaries, encyclopedias, cumulative indexes, and so on;

3.3. Data collection technique

In data collection techniques, what will be examined is secondary data. Thus the main activity carried out in carrying out this research, namely the study of literature using documentary techniques, which are collected from archival studies or literature studies that exist in secondary data. Secondary data is data that includes primary legal materials, secondary legal materials and tertiary legal materials obtained from the library, by reviewing, analyzing and processing literature, laws and regulations, legal journals, articles or writings, encyclopedias and legal dictionaries related to the problem to be studied.

3.4. Data Processing Techniques

3.5. Data analysis technique

Most of the data collected is qualitative data and analysis techniques using qualitative techniques. This technique was chosen by researchers to produce qualitative data, namely data that cannot be categorized statistically. In this study, legal material was analyzed qualitatively, which was set forth in narrative form by explaining and detailing the Juridical Analysis of Alcoholic Beverage Regulations in Southeast Minahasa Regency in the Perspective of Economic Law.

RESULTS AND DISCUSSION

Regulations regarding alcoholic beverages have been regulated in various laws and regulations, starting from the law level to the regional regulation level, which are interrelated with each other that currently exist and apply in Indonesia, including:

I. The 1945 Constitution of the Republic of Indonesia

Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia emphasizes that "everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to get a good and healthy environment and has the right to receive health services." With these provisions, the constitution recognizes and guarantees the human right to health for everyone in Indonesia. Therefore, the State is responsible for regulating and protecting the right to health. This constitutional article is a

⁴Peter Mahmud Marzuki. 2006. Legal Research. First Edition 2nd Printing. datena Prenada Media Group. Jakarta, p. 35.

⁵Soerjono Soekanto and Sri Mamudji. 2001. Normative Legal Research. PT. RajaGrafindo Persada. Jakarta, p.13.

legal basis that can be used as a reference for the political direction of state law in legal arrangements related to alcoholic beverages. Legal arrangements related to alcoholic beverages for the community aim to guarantee everyone's right to a good and healthy environment.

a. UU no. 18 of 2012 concerning Food

This law does not regulate alcohol directly, but alcohol can be related to food, in this case processed food as the substance of this law. The provisions that are expressly contained in this law that can be used for drinking alcohol are regulations regarding production, safety, and food safety and quality standards. Regarding food production, this law stipulates that Everyone who produces certain Processed Foods for trading is obliged to apply Food processing procedures that can inhibit the process of decreasing or losing the Nutritional content of the food raw materials used. Related to food safety, this law stipulates that Food Safety is organized to keep food safe, hygienic, of high quality, nutritious, and does not conflict with religion, belief, and community culture to prevent the possibility of biological, chemical and other contaminants that can disturb, harm and endanger human health. In addition, to guarantee food safety and food quality, the government sets food safety and food quality standards and everyone who produces and trades food is obliged to meet these food safety and food quality standards. For the implementation of this food, the government has the authority to carry out supervision related to: the government sets food safety and food quality standards and everyone who produces and trades food is obliged to meet these food safety and food quality standards. For the implementation of this food, the government has the authority to carry out supervision related to: the government sets food safety and food quality standards and everyone who produces and trades food is obliged to meet these food safety and food quality standards. For the implementation of this food, the government has the authority to carry out supervision related to:

1. Availability and/or adequacy of food carried out by government agencies that carry out government affairs in the Food sector;
2. Requirements for Food Safety, Food Quality and Food Nutrition, as well as requirements for Food labeling and advertising for Processed Foods, are carried out by government agencies that carry out government tasks in the field of drug and food control; And
3. Requirements for Food Safety, and Food Nutrition as well as requirements for Food labels and advertisements for fresh Food, are carried out by government agencies that carry out government affairs in the Food sector.

b. UU no. 7 of 2014 concerning Trade

This law also does not regulate minol directly. However, minol as a result of production to be able to reach its consumers is in a cycle of distribution and trading. In connection with this, Law no. 7 of 2014 concerning Trade regulates licensing in the trade sector. This law stipulates that Business Actors who carry out Trading business activities are required to have permits in the Trade sector which are granted by the Minister in charge of government affairs in the trade sector and may delegate or delegate the granting of licenses to Regional Governments or certain technical agencies. This law also regulates the supervision of trade in charcoal that borders other countries. The government supervises and provides customs and excise services, immigration, as well as quarantine at exit cross-border posts or at entry-border posts and in certain places or areas in accordance with the provisions of laws and regulations and the minister in charge of government affairs in the field of trade coordinates and

synchronizes with the relevant ministers before concluding a Border Trade agreement. In terms of this supervision, the Government and Regional Governments have the authority to supervise policies in the trade sector by the central government. Regarding the supervision of trading activities, this is regulated in detail in Chapter XVI of Law no. 7 of 2014 concerning Trade. In addition, minol business actors, both producers and importers, who do not fulfill their obligations and violate the provisions of this law are subject to criminal sanctions as stipulated in Law no. 7 of 2014.

In addition, Law no. 23 of 2014 also includes other regulations related to minol in the provisions regarding the Division of Government Affairs in the Industrial Sector. Based on these provisions, the Central Government is obliged to carry out: 1) industries that have a large impact on the environment; 2) alcoholic beverage industry; and 3) strategic industries. The Central Government is also obliged to: Issuance of IPUi for: 1) industries that have a large impact on the environment; 2) alcoholic beverage industry; 3) strategic industries.

II. Presidential Decree

a. Presidential Regulation Number 74 of 2013 concerning Control and Supervision of Alcoholic Beverages

At the Presidential Regulation level, there is Presidential Regulation Number 74 of 2013 concerning Control and Supervision of Alcoholic Beverages (Perpres No. 74 of 2013). This regulation was formed after the Supreme Court Decision Number 42 P/HUM/2012 dated 18 June 2013 declared Presidential Decree Number 3 of 1997 concerning the Supervision and Control of Alcoholic Drinks invalid and has no legal force. This regulation again specifically regulates the control and supervision of the procurement, distribution and sale of alcoholic beverages. With this new regulation, it is hoped that it can provide protection and maintain public health, order and peace from the adverse effects of alcohol abuse. Article 3 paragraph (2) and (3) Presidential Regulation No. 74 of 2013 stipulates that minol is categorized as “Goods under Control”. Supervision in this case includes supervision of the procurement of minol originating from domestic production or import origin, supervision is also aimed at its circulation and sales.

Presidential Decree No. 74 of 2013 specifically regulates the control and supervision of alcohol for the Special Capital Region of Jakarta (DKI Jakarta), as stipulated in Article 8. The provision states that determines the Regents/Mayors and Governors to exercise control and supervision over the production, distribution and sale of Traditional Alcoholic Beverages for the needs of customs or religious ceremonies in their respective work areas. Furthermore, Article 9 of Presidential Decree No. 74 of 2013 contains the delegation of provisions regarding the regulation of the authority to control and supervise Alcoholic Beverages regulated by ministers/heads of institutions in accordance with their respective fields of work.

b. Presidential Regulation Number 44 of 2016 concerning List of Business Fields That Are Closed and Business Fields Open With Requirements in the Investment Sector

If we take a closer look, Presidential Regulation Number 44 of 2016 concerning List of Business Fields That Are Closed and Business Fields That Are Open With Requirements in the Investment Sector (Perpres No. 44 of 2016) describes the legal political direction of the Government of Indonesia which wants to limit the development of minol circulation in society by closing access in investment activities for the minol business sector.

b. Regulation of the Minister of Trade Number 20 of 2014 concerning Control and Supervision of the Procurement, Distribution and Sales of Alcoholic Beverages

c. Regulation of the Minister of Trade Number 72/M-DAG/10/2014 of 2014 concerning Amendments to Regulation of the Minister of Trade Number 20/M-DAG/Per/4/2014 concerning Control and Supervision of the Procurement, Distribution and Sales of Alcoholic Beverages

One of the important matters regulated through this regulation is contained in Article 53. Article 53 stipulates that retailers of Group A alcoholic drinks must have SKP-A, no later than 18 (eighteen) months since this Ministerial Regulation came into effect, in 2014 to be precise. , direct sellers of group A alcoholic drinks must have SKPL-A no later than 12 (twelve) months after this Ministerial Regulation comes into effect.

d. Regulation of the Minister of Trade Number 6 of 2015 concerning the Second Amendment to the Minister of Trade Regulation Number 20/M-DAG/Per/4/2014 concerning Control and Supervision of the Procurement, Distribution and Sales of Alcoholic Beverages

Substantial changes in this ministerial regulation are quite significant because they have an impact on small-scale retailers or retail alcoholic beverage traders in mini-markets or in small stalls in various regions. As regulated in Article 14 paragraph (3) and paragraph (4) of the Minister of Trade Regulation Number 20 of 2014. This article stipulates that "Class A Alcoholic Beverages can be sold in Minimarkets, Hypermarkets, Supermarkets and other retailers" is deleted and amended. Article 14 is changed to reads: "Class A Alcoholic Drinks can also be sold in supermarkets and hypermarkets".

This ministerial regulation also confirms that when this Ministerial Regulation comes into effect the SKP-A for minimarkets and other retail shops is declared invalid, so that minimarket-scale alcoholic beverage retailers and other retailers, no later than 3 (three) months must have withdrawn Alcoholic Beverages product class A from circulation.

V. Local regulation

At the Regional Regulation level, there are already quite a number of Regional Regulations that regulate Alcoholic Beverages, both at the Provincial and Regency/City levels. Although it must also be admitted, that of course there are still many regions that have not made it or have regional regulations related to drinking alcohol. In North Sulawesi Province, especially the Southeast Minahasa Regency, there is a Regional Regulation related to alcoholic beverages, namely the Regional Regulation of the Southeast Minahasa Regency Number 8 of 2017 concerning Control and Supervision of Raw Materials for Alcohol Beverages.

The Regional Regulation of the Southeast Minahasa Regency Number 8 of 2017 concerning the Control and Supervision of Alcohol Beverage Raw Materials was formed with the consideration that alcoholic beverages in the Southeast Minahasa Regency are products that have economic value and are closely related to health aspects, security conditions and public order, morals, attitudes mentality, and social attitudes of the people, whose circulation is currently increasing and expanding and has even penetrated to all levels of people's lives. In an effort to minimize the negative impact caused by consuming alcoholic beverages, it is necessary to control, supervise and control the circulation of raw materials for alcoholic beverages.

The scope of the Regional Regulation of Southeast Minahasa Regency Number 8 of 2017 concerning Control and Supervision of Alcohol Drink Raw Materials regulates the use, licensing,

control, supervision and sanctions. Manufacture of drinks distilled from palm trees in Southeast Minahasa Regency is an activity of making alcoholic beverages traditionally and from generation to generation through a process of fermentation and distillation or fermentation without distillation, packaged in a simple manner and carried out at any time.

VI. Regulations Related to Licensing, Distribution and Trading, as well as Supervision and Control

a. Licensing

Licensing for Minol cannot be separated from the typology of drinks containing ethyl alcohol (MMEA), both produced domestically and imported from other countries. This liquor license refers to several laws and regulations which form the basis for the policy line for mineral regulation. Licensing authority exercised by local governments is based on Law no. 23 of 2014 concerning Regional Government. UU no. 23 of 2014 concerning Regional Government regulates the issuance of permits for alcoholic beverages, as in the attachment it has been determined regarding "Concurrent Government Affairs Division Between Regional Governments and Provincial Regions and Regency/City Regions". Both at the Central Government level, up to the Provincial, district and city Regional Government levels, it can be said that it has been carried out as it should.

In the Division of Governmental Affairs in the Trade Sector, related to Licensing and Company Registration matters, the Central Government has issued business licenses for the trade of alcoholic beverages, importers of registered alcoholic beverages (IT-MB), distributors and sub-distributors. Meanwhile, the Provincial Government has issued a permit to trade alcoholic beverages in a bead-free shop and a recommendation for the issuance of SIUP-MB for distributors. Then for Regency/Municipal Governments it has carried out Issuance of business licenses for trading alcoholic beverages class B and C for retailers and direct sellers of drinking on the spot. However, in the supervision carried out by the regional government, there were still sellers who did not have distribution permits,

Even though the Regulation of the Minister of Trade Number 20 of 2014 concerning Control and Supervision of the Procurement, Distribution and Sales of Alcoholic Beverages stipulates in Pasal 31 paragraph (2) that: Business entities are prohibited from distributing and/or trading Alcoholic Beverages that are not equipped with a license as regulated in the Regulation this minister. The sanctions for this violation are as stated in Article 49 paragraph (2) that: Business entities that distribute and/or technical permits. The local government usually resolves the problem of not having a license to sell liquor by asking the business entity to immediately take care of the permit. This is done by the Regional Government to keep the community's economy growing.

Then regarding the implementation of Law Number 23 of 2014 concerning Regional Government, especially regarding the Division of Government Affairs in the Industrial Sector (minol), the government has also implemented it properly. The Central Government carries out the Issuance of Small IUIs, Medium IUIs, and Large IUIs for: 1) industries that have a big impact on the environment; 2) alcoholic beverage industry; 3) strategic industries. The Central Government also issues IPUI for: 1) industries that have a big impact on the environment; 2) alcoholic beverage industry; and 3) strategic industries. While the Regional Government does not have the authority in this matter.

With regard to the implementation of Presidential Regulation Number 74 of 2013 concerning Control and Supervision of Alcoholic Beverages, in general it can be said that it has been implemented properly. Meanwhile, with regard to Presidential Regulation Number 44 of 2016 concerning List of Business Fields That Are Closed and Business Fields Open With Conditions in the Investment Sector. Minol licensing also follows the provisions in this presidential regulation. The provisions in this presidential regulation are well implemented. In accordance with these regulations, the Government of Indonesia is no longer allowed to issue new permits related to the minol industry, because minol has been categorized in the Negative Investment List (DNI). Based on Article 4 Permenperin No. 62 of 2015, industrial minol companies that already have industrial business permits related to minol,

Changes to permits are not permitted to make changes to increase production capacity from permits that have been previously granted. Based on this provision, it can be interpreted that access to investment for the minol business sector is still very closed in Indonesia. Alcoholic Liquor Containing Industry (ISIC 11010), Alcoholic Liquor Containing Industry: Wine (KBLI 11020), and Malt Containing Beverage Industry (ISIC 11031) are included in the list of Business Fields Closed to Investment.

Regarding the application of regulations related to MINOL at the Ministerial Regulation level, there are several regulations that can be reviewed, one of which is Permenperin No. 63/M-IND/PER/7/2014 concerning Control and Supervision of the Industry and Quality of Alcoholic Beverages, as well as the amendment regulations, namely Permenperin Number 52 of 2015 concerning Amendments to the Regulation of the Minister of Industry Number 63/M-IND/PER/7/2014 concerning Control And Industrial Control And Quality Of Alcoholic Beverages. In general, this Ministerial Regulation has certainly been implemented as it should, namely with regard to the regulation and requirements for the production process of the Minol industry.

b. Distribution and Trading

Meanwhile, the implementation of Regulation of the Minister of Trade Number 20 of 2014 concerning Control and Supervision of the Procurement, Distribution and Sales of Alcoholic Beverages has generally been well implemented. But of course in the field there are still found inconsistencies between regulations and their implementation.

Furthermore, Regulation of the Minister of Trade Number 6 of 2015 concerning the Second Amendment to Permendag No. 20/M-DAG/PER/4/2014 there is an important substance that needs to be reviewed for its implementation, because it turns out that this regulation has an impact on small-scale retailers or retail alcoholic beverage traders in minimarkets or retailers in small stalls in various regions. Article 14 paragraph (3) and (4) of the Minister of Trade Regulation Number 20 of 2014 was changed to Article 14 which reads: "Class A Alcoholic Drinks can also be sold in supermarkets and hypermarkets". So that it has implications for minimarkets and other retailers such as small shops not being allowed to sell alcoholic beverages anymore. Including small Minol traders at tourist sites who usually go around carrying their wares and selling them to tourists.

Apart from that, in the distribution and trading of alcohol, it is necessary to have a pattern of coordination to regulate the distribution and sale of motors. This coordination pattern is carried out by creating a system that can integrate licensing data for production, import, sales and excise paid as well as carrying out simultaneous supervision between related agencies.

c. Supervision and control

Minol supervision and control is carried out by several stakeholders. The authority to supervise and control the circulation of alcoholic beverages needs to be exercised by the Ministry of Industry in terms of production and product quality, BPOM in terms of distribution permits, the Ministry of Trade for distribution channels, Customs and Excise in terms of compliance with excise payments, and the Police for law enforcement against criminal policies. over minol.

The control and supervision system for the alcoholic beverage industry is currently carried out by the Ministry of Industry by monitoring industry permits, factory visits and inspections of production realization in coordination with relevant agencies such as Customs, BPOM, and the Ministry of Trade. The Ministry of Industry coordinates with Customs regarding industry compliance with excise payments for alcoholic beverage products, BPOM with distribution permits for these products, and the Ministry of Trade with import permits and liquor trade permits.

Meanwhile in Southeast Minahasa Regency itself, the implementation of the authority of an integrated team in the context of monitoring the distribution and sale of alcoholic beverages is contained in the Regional Regulation of Southeast Minahasa Regency Number 8 of 2017 concerning Control and Supervision of Raw Materials for Alcoholic Beverages. After the regulation was issued, the supervision of alcoholic beverages was directly led by the heads of offices and related agencies to oversee places that sell alcoholic beverages. Supervision by the head of the service is also carried out at the request of the distributor or seller. If there is socialization from the head of the service or other socialization, coaching for alcoholic beverages is often inserted, especially for teenagers.

4.2. IMPLEMENTATION OF ALCOHOLIC DRINKS RULES SO THAT IT CAN BENEFIT THE GOVERNMENT AND SOUTHEAST MINAHASA COMMUNITIES IN ECONOMIC LEGAL PERSPECTIVE**4.2.1. Implementation and Benefits of Regulation on Alcoholic Beverages for the Economy of the People of Southeast Minahasa**

The economy is an important element in the welfare of the population. A good and growing economy makes an important contribution to society, which will have a positive impact on increasing people's income. That is, if the economy is growing, opportunities are also opened for the community to earn income through their participation in economic activities.

Nonetheless, the regional economy has a close relationship with the development of the national economy, even the situation of world economic development. Changes or quite drastic disturbances that occur in certain countries can even affect the regional economy. In this perspective, people's income at the regional level can be influenced by the national economy or other countries.

Regional economic conditions in general can be indicated by the Gross Regional Domestic Product (GRDP) figure, which describes the gross added value/final output value generated through the production of goods and services by production units in a region within a certain period. The development of the general economic condition of the people of Southeast Minahasa Regency which is a macro performance picture of governance and implementation of development shows positive developments, despite the fact that the development of national conditions continues to give color to

the dynamics of development of economic conditions in regions throughout Indonesia, including the Minahasa Regency area Southeast.

Each region has different characteristics and phenomena in developing its area depending on its regional structure and regional culture. This is of course a positive value for regional development if its benefits are optimized within the framework of regional development, including for Southeast Minahasa Regency which is one of 15 Regencies/Cities in North Sulawesi Province.

Southeast Minahasa Regency has an area of 730.62 Km² or 73,062 Ha, (South Minahasa Regency BPS) which is directly adjacent to East Amurang District and Amurang District of South Minahasa Regency to the north, with Langowan District of Minahasa Regency and the Maluku Sea to the east, with Maluku Sea and Kotabunan District, Bolaang Mongondow Regency to the south, with Ranoyapo District and Kumelembuai District, South Minahasa Regency to the west.

Administratively, Southeast Minahasa Regency is divided into 12 districts and 9 sub-districts and 135 villages. Of these, there are 2 (two) districts that have the widest area, namely Ratatotok District with an area of 10,418 km² (14.26%) and Touluaan Selatan District with an area of 10,180km² (13.93%). Ratatotok Subdistrict is a coastal area where most of its territory still has potential for agriculture and plantation fisheries, Tourism and Mining, while Touluaan Selatan District is an area that has potential for agriculture, forestry and mining. Meanwhile, the districts that have the smallest area are East Tombatu District with an area of 1,881 km² (2.55%) and North Tombatu District with an area of 3,717km² (5.08%).

The economic development of the people of Southeast Minahasa Regency can be shown through the value of the Gross Regional Domestic Product (GRDP) from year to year. Gross Regional Domestic Product (GDP) can generally describe the level of economy and welfare in a particular area. Gross Regional Domestic Product (GRDP) is One important indicator to determine the economic condition of the people of Southeast Minahasa Regency at a macro level is through data on the Gross Regional Domestic Product (GRDP), the total gross value added (gross value added) arising from all economic sectors in a region. There are 2 (two) types of GRDP assessment, namely on the basis of current prices (ADHB) and on the basis of constant prices (ADHK).

GRDP at Current Prices (ADHB) describes the added value of goods and services calculated using prices in the current year. Meanwhile, GRDP at constant prices (ADHK) shows the added value of these goods and services which are calculated using prices prevailing in a certain year as the base year. GRDP ADHB is used to determine the ability of economic resources. Meanwhile ADHK GRDP is used to determine real economic growth from year to year or economic growth that is not influenced by price factors.⁶

Captikus is made from the basic ingredients of an alcoholic drink made from sap which has an alcohol content of 30 to 80 percent. Rat brand alcohol is used as the basic ingredient for making alcoholic beverages from various brands. The raw material for rat stamp alcohol is not in packaged form but is put in drums/gallons which are estimated to contain up to 80 liters and have no labels or trademarks, meaning that they are sent directly from farmers.

Captikus farmers, the majority number in the thousands. Mouse stamps originating from farmers

⁶Brief Report of the Special Committee (Pansus) on the Draft Law on the Prohibition of Alcoholic Beverages, Session Year 2015-2016, p.5.

are sold to collectors and then the collectors sell to manufacturers. But there are also farmers who sell directly to producers. From this rat stamp, traditional/local alcoholic beverage producers process it into local alcoholic drinks that have been packaged and given excise stamps and then sold through distributors.

From the results of the income of captikus farmers, it can improve the standard of living and the economy of captikus farmers. Apart from that, from the income of captikus farmers, they have succeeded in sending their children to higher education and getting decent jobs as well as contributing in the form of retribution taxes to the government of Southeast Minahasa Regency.

4.2.2. Implementation and Benefits of Regulating Alcoholic Beverages for Regional Original Revenue (PAD) of the Southeast Minahasa Regency Government

In general, it can be concluded that regional original income is income obtained from the management of regional original potential in accordance with applicable laws and regulations. The financial image of the local government will be reflected in the amount of PAD earned, and how the local government finances are allocated to finance regional government activities for the welfare of its people. To increase PAD revenue, local governments need to analyze the potentials that exist in the region and develop this potential as regional income.

Potential development will create local revenue for those who are useful for carrying out development goals. Effective and efficient management of regional own-source revenues needs to be carried out by taking into account regional economic conditions as well as the national economy. The contribution achieved from regional original income can be seen from how much this income is channeled to develop regions so that they are more developed and able to improve people's welfare.

Local taxes, regional levies, results of regional wealth management, and other legitimate regional revenues together become components of PAD. Local taxes are one of the main and very important sources of local revenue for local governments. Regional taxes based on Law Number 28 of 2009 concerning regional taxes and regional levies consist of Provincial Taxes and Regency/City Taxes.

Regarding Regional Original Revenue (PAD) of Southeast Minahasa Regency from the alcoholic beverage sector, it is regulated in the Regional Regulation of Southeast Minahasa Regency Number 9 of 2019 concerning the 2020 Regional Revenue and Expenditure Budget, which is related to retribution for permits for places to sell alcoholic beverages. Where from the levy for permits for the sale of alcoholic beverages, it has made a significant contribution but has not been maximized for the Regional Original Revenue (PAD) of Southeast Minahasa Regency.

In Southeast Minahasa Regency itself there is already a regional regulation that regulates Alcoholic Beverages, namely the Regional Regulation (Perda) of Southeast Minahasa Regency Number 8 of 2017 concerning Control and Supervision of Raw Materials for Alcoholic Beverages, which is the legal basis for the government of Southeast Minahasa Regency in withdrawing alcoholic beverage tax levies. but only in the form of regulation on controlling, supervising and overcoming the circulation of raw materials for alcoholic beverages. Regarding the captikus traditional drink, there is no Regional Regulation that specifically regulates it, causing revenue from the regional tax retribution sector, in this case Regional Original Revenue (PAD) of Southeast Minahasa Regency, to be unable to be implemented. Even though the potential for special tax revenue from Captikus farmers is very large.

The levy for the license to sell alcoholic beverages, namely captikus, is a very potential source of

local revenue for the Southeast Minahasa Regency government. In general, permits are all forms of approval issued by the Government and regional governments that have authority in accordance with statutory provisions.

Licensing as one of the instruments in the administration of regional government can be applied as one of the authorities determined by the regional government whose implementation is reflected in the attitude of the regional head's legal actions, both on the basis of statutory regulations which are used as the basis, as well as in the framework of addressing the principles of proper governance as a form of public responsibility. Licensing as a means of extracting and exploiting regional potential for PAD sources in the era of regional autonomy can be developed freely and optimally but still proportionally taking into account the situation, conditions and roots of regional aspirations.⁷

Licensing as a government instrument that is juridical preventive, which is used as a means of administrative law to control people's behavior. In line with this, permits can be divided into four types:⁸

- a. Permission, aims and means to remove obstacles; prohibited rights become permissible. Rejection of a license application requires a limitative formulation.
- b. Dispensation aims to break through barriers that are not formally permitted, so dispensation is a special matter.
- c. License, is a permit that gives things to organize a company.
- d. Concession, is a permit in connection with a large work relating to the public interest which should be the duty of the government, but the government gives the right to implement it to permit holders who are not government officials. The form can be in the form of a contractual, or a combination or license form by granting a certain status with rights and obligations as well as certain conditions.

In determining the granting of permits basically there are two elements:⁹

1. Positive, meaning that a stipulation has created new rights and obligations for the license applicant;
2. External, meaning that in a stipulation there is a legal relationship between the government, in this case the state administration official as a government apparatus, and an individual or civil legal entity as the license applicant. and open business fields with requirements in the field of investment.

Specifically regarding the licensing of alcoholic beverages in Southeast Minahasa Regency, it is regulated in Article 6 of the Regional Regulation (Perda) of Southeast Minahasa Regency Number 8 of 2017 concerning Control and Supervision of Raw Materials for Alcohol Beverages, namely:

1. Every person/business entity that collects/delivers raw materials for alcoholic beverages must have a permit;
2. The permit as referred to in paragraph (1) is issued by the Regent;
3. Issuance of permits as referred to in paragraph (2) can be issued by the Office appointed by the Regent.

⁷Juniarso Ridwan and Achmad Sodik Sudrajat, Op.Cit, p.99.

⁸Ateng Syafrudin, Licensing Management, Center for Education and Training, ST Alosius, Bandung, 1992, p.4.

⁹Atang Ranuwiharja, State Administrative Law and State Administrative Court in Indonesia, Transito, Bandung, 1989, p.20.

Conclusion

1. So far, regulations related to alcoholic beverages, both regulations issued by the central government and regulations issued by regional governments, are scattered in various laws and regulations in the form of Presidential Regulations, Candy and Regional Regulations. These various laws and regulations have not been integrated in the form of laws that specifically regulate alcohol-related beverages, and some of these regulations overlap with one another.

2. Regulation of alcoholic beverages for the economy of the people of Southeast Minahasa has been regulated in the Regional Regulation (Perda) of Southeast Minahasa Regency Number 8 of 2017 concerning Control and Supervision of Raw Materials for Alcohol Beverages, but only in the form of regulation of alcohol raw materials. Regarding the captikus traditional drink, there is no Regional Regulation that specifically regulates it, causing revenue from the regional tax retribution sector, in this case Regional Original Revenue (PAD) of Southeast Minahasa Regency, to be unable to be implemented. Even though the potential for special tax revenue from Captikus farmers is very large.

Suggestion

1. It is hoped that there will be a need to establish special laws related to alcoholic beverages which must consider the culture in each region that has traditional special drinks. In addition, various related laws and regulations which overlap with each other must be immediately synchronized both vertically and horizontally.

2. It is hoped that the local government will need to make a Regional Regulation (Perda) of Southeast Minahasa Regency regarding sales license fees and special storage for captikus farmers given the large potential tax revenue from the traditional captikus alcoholic beverage sector which can be beneficial for development and the economy of the government and the people of Southeast Minahasa Regency.

REFERENCE

1. Arifin, M. 1990. Legal Theory (Theory & Philosophy of Law Critical Study of Legal Theories). Jakarta : Rajawali.
2. Aristotle, 1943, *Politica*, New York : The Modern Library.
3. Asshiddiqie, J, 2010, *Economic Constitution*, Jakarta: PT. Kompas Media Nusantara.
4. Badrudin, R., 2011. *Regional Autonomous Economy*. Yogyakarta: UPP STIM YKPN.
5. Basah, S., *Revocation of Permit as One of the State Administrative Law Sanctions*, Faculty of Law Unair, Surabaya.
6. Bratakusumah, Supriady D., Solihin, D., *Autonomy of Regional Government Administration*, Gramedia Pustaka Utama, Jakarta, 2003.
7. Dicey, AV, 2007. *Introduction to the Study of the law of the Constitution* (Introduction to the Study of Constitutional Law) translated by Nurhadi, Bandung: Nusa Media.
8. FHIPK UI, 1996, *Indonesian symposium on the rule of law*, Jakarta.
9. Friedmann, W., 1960, *Legal Theory*, London : Stevens & Sons Limited.
10. Friedman, ML, 2001, *American Law : And Introduction*, Second Edition, Jakarta : PT. Tatanusa.

11. Giroth, LM, 2004, Civil Service Education and Profession, Public Policy Studies, Good Governance and Performance Driven Panong Praja, Jatinangor: STPDN Press.
12. Hadi, S., 1995. Research Methodology. UGM Publishing Foundation. Yogyakarta.
13. Huijbers, T., 1982, Philosophy of Law in Historical Tracks, Yogyakarta: Kanisius.
14. HS, Salim., Nurbani, E. Sa., 2017, Application of Legal Theory in Dissertation and Thesis Research, Third Book, Second Print, Jakarta: PT. RajaGrafindo Persada.
15. Kerlinger, Fred N, 1990, Principles of Behavioral Research. Yogyakarta: Gadjah Mada University Press.
16. Kusumaatmadja, M., 2002, Legal Concepts in Development, 1st Edition, Bandung: PT. Alumni.
17. Limbong, B., 2011, Land Acquisition for the Development of Law Enforcement Compensation Regulations, Jakarta: CV. Rafi Forward Independently.
18. Manan, B., Relations Between Center and Regions According to the 1945 Constitution, Sinar Harapan Library, Jakarta, 1945.
19. Marwan, M., P, Jimmy., Legal Dictionary; Dictionary Of Law Complete Edition, Print I, Reality Publisher, Surabaya, 2009.
20. Marzuki, P. Mahmud. 2006. Legal Research. First Edition 2nd Printing. datena Prenada Media Group. Jakarta.
21. Muchsan, 1981, State Administrative Court, Yogyakarta: Liberty.
22. Nurwijaya, H., Ikawati, Z., The Dangers of Alcohol, Elex Media Komputindo, 2010.
23. Plato., 1960, The Republic, Middlesex: Harmondsworth.
24. Ranuwiharja, A., State Administrative Law and State Administrative Court in Indonesia, Transito, Bandung, 1989.
25. Ridwan, J., Sudrajat, AS, 2012, State Administrative Law and Public Service Policy, Third Edition, Bandung: Nuances.
26. Sarantakos, S. 1993. SocialResearch. Melbourne : Macmillan Educational Australia Pty. Ltd.
27. Siahian, P., 2012. The Legal Politics of Forming Laws After the Amendment to the 1945 Constitution. Jakarta: Konpress
28. Soepomo, R., 1966, Indonesia is a rule of law, seminar on constitutional affairs of the 1945 Constitution, Jakarta.
29. Simarmata, HT, 2008, The Welfare State and Globalization: Policy Development and Comparison of Experiences, Jakarta: PSIK Paramadina University.
30. Soekanto, S., Mamudji, S., 2001. Normative Legal Research. PT. RajaGrafindo Persada. Jakarta.
31. Sulistiyono, A., Rustamaji, M., 2009, Economic Law as Commander in Chief. First Printing, Sidoarjo: Masmedia Buana Pustaka.
32. Sumaryadi, IN, 2010, Sociology of Government; From the Perspective of Service, Empowerment, Interaction, and Government Leadership Systems in Indonesia, Jakarta: Ghalia Indonesia.
33. Syafrudin, A., Licensing Management, Center for Education and Training, ST Alosius, Bandung, 1992.

34. UNPAD Faculty of Law Research Team at a Seminar on Licensing for Coastal Land Use, Bandung, 1993.
35. Triwibowo, D., Bahagijo, S., 2006, Dream of a Welfare State, Jakarta: LP3ES.
36. Wahjono, P., 1983, Indonesia is a State Based on Law, Jakarta: Ghalia Indonesia.
37. Wignjosoebroto, S., 2002. Law; Paradigm, Method and Problem Dynamics. Jakarta : ELSAM-HUMA