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Research Paper

Criminal Law Analysis of Using Fake Motor Vehicle Numbers (TNKB) in Avoiding Electronic Tickets

Jefryson Andri Pratama Hadi¹, Ach. Rubaie²

1.2 Master of Law Studies, Faculty of Law Universitas of Dr. Soetomo Surabaya Corresponding Author: Jefryson Andri Pratama Hadi

ABSTRACT: The main purpose of this study is to find out the criteria for fake according to the Traffic Law, as well as knowing the Criminal Threats of using Fake Vehicle Numbers to avoid E-TLE fines. The research findings relate to the violation of using fake numbers that violate Law Number 20 of 2009 Articles 68 and 69 concerning Road Traffic and Transportation, as well as Republic of Indonesia National Police Regulation Number 7 of 2021 concerning Registration and Identification of Motorized Vehicles. In addition, drivers can be entangled in fraud article 263 paragraph 2 of the Criminal Code. Recommendation: Application of E-TLE fines in traffic is very important, including: (1) As law enforcement efficiency because traffic violations can be detected automatically and quickly, (2) As an effort to prevent violations because drivers will think twice before committing a violation because drivers know that their violations can be detected easily. (3) As an effort to increase safety because with better detection and law enforcement, motorists will comply with traffic rules more thereby increasing road safety, and (4) As transparency because the ETLE system can provide visual evidence of traffic violations, which can help increase transparency and fairness in traffic law enforcement. Therefore, the role of criminal law and traffic police is very important in people's lives, especially in implementing E-TLE because it creates traffic rules to protect the safety of all road users, including drivers, passengers, pedestrians and cyclists.

Keywords: Traffic, E-TLE, Violation

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I. INTRODUCTION

Legal awareness in the community has not been fully implemented, such as in the field of traffic where public awareness of traffic laws and road transport is still lacking, therefore it is necessary to make efforts to increase public awareness of the importance of legal regulations in traffic[1]. The high number of traffic violations that occur in Indonesia is the main cause of traffic accidents, sometimes the negligence of a driver can result in accidents for many drivers. Therefore, as a form of decisive police action to prevent driver negligence, traffic rules were made as contained in Law No. 22 of 2009 concerning Road Traffic and Transportation (UU LLAJ) because this law has a strategic role in supporting development and national integration as part of efforts to promote public welfare, as well as law enforcement in improving traffic safety [2].

Law No. 22 of 2009 Article 3 on road traffic and transportation is organized with the aim of realizing orderly, safe, secure and smooth road traffic and transportation services so as to encourage the national economy, in addition to realizing traffic ethics and law enforcement and legal certainty for the community[3]. Traffic is the movement of vehicles from people who are on road infrastructure, so that the substance of the traffic law is the law that regulates the movement of people on road infrastructure. UULAJ has made a classification of traffic law violations committed by the community, namely administrative legal violations that are threatened with administrative sanctions and violations of criminal law that are threatened with criminal sanctions [4].

Traffic law violations are a challenge for the police to remain able to carry out their functions but with sanctions that educate and still have a deterrent effect[5]. One way that can be applied at this time by the police is by imposing administrative sanctions in the form of E-TLE tickets. The E-TLE (Electronic Traffic Law Enforcement) system is a new system developed by the police which has been implemented simultaneously in Indonesia since December 2017. E-TLE is an electronic ticketing system that assists the police in supervising

and enforcing traffic laws by utilizing CCTV cameras as a the form of innovation in accordance with the development of digitalization 4.0[2].

Police efforts to enforce traffic laws on the highway use the E-TLE (Electronic Traffic Law Enforcement) system which works by taking pictures of motorists who commit traffic violations on the highway through CCTV cameras that have been installed at every traffic light. The CCTV camera has been integrated with the Traffic Management Center (TMC), so that if a violation is found by a motorized vehicle, the TMC officer will look for the identity of the motorized vehicle and the identity of the owner, then will send evidence of the violation and a ticket to the address of the vehicle owner listed on the STNK along with a fine. which must be paid together with paying the annual motor vehicle tax. The application of the E-TLE sanction is in accordance with the traffic law article 185 paragraph 1 of the Criminal Procedure Code which stipulates that witness statements, expert statements, letters, instructions and statements of the accused can be evidence against E-TLE sanctions. In addition to the ITE Law No. 11 of 2008 Article 5 paragraph 1 explains that "Electronic Information and/or Electronic Documents and/or printouts are valid legal evidence" so that electronic documentation in the form of CCTV camera photos is valid evidence against traffic violations [6].

One of the problems of violations of traffic law in Indonesia was committed by car drivers using fake number Motor Vehicle Numbers (TNKB), where it was found that a driver with the initials MDS used a fake number on a Jeep Rubicon to avoid fines. E-TLE. After tracing, it is not known since when the MDS driver used a fake Motorized Vehicle Number (TNKB) because it is still under police investigation. The police have imposed fines in accordance with the provisions of Law no. 22 of 2009 Article 68 paragraph 1 concerning Road Traffic and Transportation which reads "Every Motorized Vehicle operated on the road must be equipped with a Motorized Vehicle Number Certificate and Motorized Vehicle Number Sign" [3]. in addition to that MDS is also charged with fraud articles under penalty of article 263 paragraph 2 of the Criminal Code which reads "The crime of forging letters is a type of violation of truth and trust, with the aim of obtaining benefits for oneself or others which can cause material or non-material losses" [7].

Research explaining the implementation of E-TLE and traffic violations was carried out by the Subadina Union, where the process of enforcing the E-Tilang law in resolving traffic violations was guided by Law Number 29 of 2009 concerning Road Traffic and Transportation. The police have ticketed manually (written on the ticket blank), then entered the data back into the E-Tilang application contained in the police officer's mobile phone which has been integrated with the Korlantas Polri (Mabes Polri) E-ticket server according to the offender's data including the ticket number . It is hoped that the police will further promote socialization to the public so that they are more familiar with the use of the E-Tilang system and it is hoped that in the future E-Tilang will be better in terms of completeness of the system such as adding CCTV, Speakers and so on, so that E-Tilang is not only called Electronic because of the payment process through the electronic system[8].

Based on the phenomenon of traffic law violations in the implementation of E-TLE, further research will be carried out to analyze in more depth related to the case and the E-TLE criminal sanctions received by MSD drivers in accordance with applicable law in Indonesia through the research title "Criminal Threats of Using Traffic Signs Motorized Vehicle Number (TNKB) for Fake Vehicles to Avoid E-TLE Tickets. The research aims to analyze the criteria for counterfeiting according to the Traffic Law and to analyze the Criminal Threats of using Counterfeit Vehicle Numbers (TNKB) to avoid ETLE fines.

II. LITERATURE REVIEWS

Traffic Police

The traffic police are implementing elements in the police's duties as regulator, guard, escort, patrol, public education, registration, traffic engineering, identification of motorized vehicle drivers, accident investigators, and law enforcement in the field of traffic[9]. The traffic police are part of a special task in the field of traffic from the duties of the police in general, so it is hoped that the traffic police can carry out their duties in the field properly, and have special expertise obtained through traffic vocational education[1]. In accordance with the Regulation of the Head of the State Police of the Republic of Indonesia No. 23 of 2010 Article 59 paragraph 3 concerning the Organizational Structure and Work Management of the Resort Police and Sector Police, the police have the function of guiding traffic, fostering community participation through cross-sectoral cooperation, implementing traffic police operations, administrative services for registration and identification of motorized vehicles, implementation of highway patrols, and many other functions[10]. Furthermore, the duties of the traffic police are based on the Regulation of the Head of the Indonesian National Police No. 23 of 2010 Article 62 namely matters of operational development, administrative and administrative matters, regulatory, guarding, guarding and patrolling units, community education and engineering units, registration and identification units, as well as accident units[11]

E-TLE (Electronic Traffic Law Enforcement)

Traffic violations are a challenge for the police to remain able to carry out their functions but with sanctions that educate and still have a deterrent effect. One way that can be applied at this time by the police is by imposing administrative sanctions in the form of E-TLE tickets. The E-TLE (Electronic Traffic Law Enforcement) system is a new system developed by the police which has been implemented simultaneously in Indonesia since December 2017. E-TLE is an electronic ticketing system that assists the police in supervising and enforcing traffic laws by utilizing CCTV cameras as a the form of innovation in accordance with the development of digitalization 4.0 [2].

Police efforts to enforce traffic laws on the highway use the E-TLE (Electronic Traffic Law Enforcement) system which works by taking pictures of motorists who commit traffic violations on the highway through CCTV cameras that have been installed at every traffic light[6]. The CCTV camera has been integrated with the Traffic Management Center (TMC), so that if a violation is found by a motorized vehicle, the TMC officer will look for the identity of the motorized vehicle and the identity of the owner, then will send evidence of the violation and a ticket to the address of the vehicle owner listed on the STNK along with a fine. which must be paid together with paying the annual motor vehicle tax. The application of the E-TLE sanction is in accordance with the traffic law article 185 paragraph 1 of the Criminal Procedure Code which stipulates that witness statements, expert statements, letters, instructions and statements of the accused can be evidence against E-TLE sanctions. In addition to the ITE Law No. 11 of 2008 Article 5 paragraph 1 explains that "Electronic Information and/or Electronic Documents and/or printouts are valid legal evidence" so that electronic documentation in the form of CCTV camera photos is valid evidence against traffic violations [12].

Ticket Terms and Fines

E-TLE sanctions applied to motorized vehicle users who commit violations have been adjusted to Law no. 22 of 2009 concerning Road Traffic and Transportation. The E-TLE sanctions for motorized vehicle drivers who commit traffic violations include the following:

- 1. Motorized vehicles that do not have a SIM: imprisonment for a maximum of 4 months or a fine of up to IDR 1 million (Article 281).
- 2. Motorized vehicles that have a driver's license but cannot show it during a raid: imprisonment for a maximum of 1 month or a fine of up to Rp. 250 thousand (Article 288 paragraph 2).
- 3. Motorized vehicles that do not have a vehicle registration number: imprisonment for a maximum of 2 months or a fine of up to Rp. 500,000 (Article 280).
- 4. Motorcyclists who do not meet the technical requirements and are roadworthy such as mirrors, headlights, brake lights, horn, speedometer, and muffler: imprisonment for a maximum of 1 month or a fine of up to IDR 250,000 (Article 285 paragraph 1).
- 5. The driver or passenger sitting next to the driver of the car does not wear a safety belt: imprisonment for a maximum of 1 month or a fine of up to Rp. 250 thousand (Article 289), and others.

III. RESEARCH METHODS

This study uses empirical juridical legal research, namely research that implements normative legal provisions in every legal event that occurs. Empirical juridical research is carried out by examining in general in the field the applicable legal provisions and various events that occur in society[13]. In accordance with the type of research, the purpose of conducting this research is to discuss in depth the E-TLE (Electronic Traffic Law Enforcement) system along with the criminal sanctions that are obtained for committing traffic violations in accordance with the form of E-TLE regulations and sanctions in Indonesian law, as well as criminal threats for committing violations such as using fake vehicle registration numbers (TNKB) to avoid E-TLE fines[6]. Furthermore, the research approach used is a qualitative approach that uses statutory and conceptual regulations. A qualitative approach is carried out without statistical or mathematical analysis, but in the form of statements obtained from several procedures such as interviews, observation, and documentation. In addition, researchers also reveal phenomena that occur by collecting social facts such as those that occur in violations of the use of fake vehicle registration numbers (TNKB) to avoid E-TLE fines.

The collection of legal materials in this study used library research only, namely data collection by tracing documents or previous literacy through procedures of reading, reviewing, summarizing, quoting, or reviewing regulations and laws relating to problems in research[12]. In accordance with the previous explanation, the problem in this study is a violation of the use of fake vehicle registration numbers (TNKB) to avoid E-TLE fines. Analysis of secondary legal material is carried out by collecting, reading, reviewing, summarizing, quoting, and reviewing regulations and laws relating to problems in research through a qualitative approach which is often also called descriptive qualitative data analysis. This analysis of legal material is intended to re-describe the information obtained in detail, then linked to the law and poured into research.

IV. RESEARCH RESULTS AND DISCUSSION

False criteria according to the Traffic Act

In Law no. 22 of 2009 Article 2 states that Road Traffic and Transportation which is organized must pay attention to the following principles, including[3]:

- 1. The principle of transparency means that the government must be honest and open in the decision-making process related to road traffic and transportation. Information must be publicly available, and decision-making processes must be understandable to all interested parties.
- 2. The Principle of Accountability, meaning that those responsible for regulation and management of road traffic and transportation must be accountable for their actions and decisions.
- 3. The Principle of Sustainability, meaning that the regulation of road traffic and transportation must be carried out in a sustainable manner, namely taking into account environmental and social impacts, as well as the needs of future generations.
- 4. Participatory principle, meaning that the community must be given the opportunity to participate in decision-making processes related to road traffic and transportation.
- 5. Beneficial Principle, meaning that the regulation of road traffic and transportation must provide benefits to the community.
- 6. Principles of Efficiency and Effectiveness, meaning that the regulation of road traffic and transportation must be carried out in an efficient and effective manner, namely by minimizing costs and time, as well as achieving the desired goals.
- 7. The principle of balance means that policies and actions in regulating road traffic and transportation must consider and maintain a balance between various interests and needs.
- 8. Integrated Principle, meaning that the regulation of road traffic and transportation must be carried out in an integrated manner, namely by coordinating and cooperating between the various agencies and parties involved.
- 9. The principle of independence, meaning that the regulation of road traffic and transportation must promote self-reliance, namely the ability of the community to regulate and manage road traffic and transportation on their own, without having to always depend on other parties.

One form of traffic violation that can be subject to E-TLE sanctions is committed by car drivers using a fake number Motor Vehicle Number (TNKB), where it was found that a driver with the initials MDS used a fake number on a Jeep Rubicon so that avoid E-TLE fines. After tracing, it is not known since when the MDS driver used a fake Motorized Vehicle Number (TNKB) because it is still under police investigation. The police have imposed fines in accordance with the provisions of Law no. 22 of 2009 Article 68 paragraph 1 concerning Road Traffic and Transportation which reads "Every Motorized Vehicle operated on the road must be equipped with a Motorized Vehicle Number Certificate and Motorized Vehicle Number Sign", in addition to that MDS is also charged with fraud articles under penalty of article 263 paragraph 2 of the Criminal Code which reads "The crime of forging letters is a type of violation of truth and trust, with the aim of obtaining benefits for oneself or others which can cause material or non-material losses".

If it is related to the MDS case that used a fake vehicle number to avoid an E-TLE fine, it can be said that MSD has violated Law no. 20 of 2009 articles 68 and 69, as well as Perpol No. 7 of 2021. If the Motorized Vehicle Number is associated with the Law and the Perpol, the criteria for being said to be fake are as follows:

- 1. Motorized Vehicle Numbers are not equipped with Motorized Vehicle Numbers.
- 2. The identity of the owner, the registration number of the Motorized Vehicle, and the expiration date are different from what is recorded in the Motorized Vehicle Registration Certificate.
- 3. The motorized vehicle mark does not contain the area code, registration number and proper validity period.
- 4. The Motor Vehicle Number Sign does not meet the requirements for shape, size, material, color, and method of installation.
- 5. The Motorized Vehicle Number is not registered and is not a Motorized Vehicle Test Mark.
- 6. Motorized Vehicle Numbers are not registered in New Motorized Vehicles, Changes in Identity and Ownership of Motorized Vehicles, Renewal of Motorized Vehicles, or Legalization of Motorized Vehicles.

Therefore, the Motorized Vehicle Number (TNKB) number used by MDS to avoid E-TLE fines meets these criteria and can be subject to criminal sanctions in accordance with the violations committed in Law Number 20 of 2009 articles 68 and 69 concerning Road Traffic and Transportation, as well as Republic of Indonesia National Police Regulation Number 7 of 2021 concerning Registration and Identification of Motorized Vehicles. Defendants who use fake motorized vehicle number signs (TNKB) can also be charged with fraud article 263 paragraph 2 of the Criminal Code which reads "The crime of forging letters is a type of

violation of truth and trust, with the aim of obtaining benefits for oneself or others who can cause material or non-material losses [14].

Criminal Threats of Using Counterfeit Vehicle Motor Vehicle Numbers (TNKB) to avoid ETLE fines

Traffic violations committed by car drivers using fake number Motor Vehicle Numbers (TNKB), on drivers with the initials MDS using fake number Motor Vehicle Numbers (TNKB) on Jeep Rubicon cars to avoid being fined by E-TLE for violating Law No. . 20 of 2009 articles 68 and 69, as well as Perpol No. 7th year 2021.

Therefore, the Motorized Vehicle Number (TNKB) number used by MDS to avoid E-TLE fines meets these criteria and can be subject to criminal sanctions in accordance with the violations committed in Law Number 20 of 2009 articles 68 and 69 concerning Road Traffic and Transportation, as well as Republic of Indonesia National Police Regulation Number 7 of 2021 concerning Registration and Identification of Motorized Vehicles. Defendants who use fake vehicle registration numbers (TNKB) can also be charged with fraud under Article 263 paragraph 2 of the Criminal Code [15].

An English legal expert, namely Beccaria and Bentham, explained that there is an element of punishment and a criminal system that can cause a deterrent effect when threatened, because the elements of the law and criminal system contain threatening factors that burden the perpetrator so that in the future it will not happen again. However, the threats given are also balanced with those carried out by the perpetrators and direct punitive sanctions are given when the violation of the law is committed (celerity), and there is an element of certainty in the implementation of the punishment (celerity). Celerity means speed or acceleration. If it is related to law, it describes the speed or efficiency of the legal process depending on the context and jurisdiction. In addition, celerity refers to legal process which refers to solving cases quickly and efficiently, or it can refer to law enforcement being swift in responding to violations of the law.

Violations of the law such as the use of fake motorized vehicle registration numbers (TNKB) can be said to be illegal and have violated Law Number 20 of 2009 Articles 68 and 69 concerning Road Traffic and Transportation, as well as Republic of Indonesia National Police Regulation Number 7 of 2021 concerning Registration and Identification of Motorized Vehicles. Motorists can be caught in fraud article 263 paragraph 2 of the Criminal Code with a criminal penalty of 6 years. However, in Law Number 20 of 2009 Article 280 it is stated that:

"Anyone who drives a motorized vehicle on a road that does not have a motorized vehicle number stipulated by the Indonesian National Police as referred to in Article 68 paragraph (1) shall be subject to imprisonment for a maximum of 2 (two) months or a fine of up to Rp. 500,000 .00 (five hundred thousand rupiah)."

Therefore, based on the case of using a fake number Motorized Vehicle Number (TNKB), as was done by the MDS driver and the former Minister of DI, he has violated Law Number 20 of 2009 Article 68, Article 69, and Article 280 concerning Traffic and Transportation Roads, Republic of Indonesia National Police Regulation Number 7 of 2021 concerning Registration and Identification of Motorized Vehicles, and Article 263 paragraph 2 of the Criminal Code for fraud, motorists who commit violations will receive a penalty of 2 months imprisonment for a maximum of 6 years with a fine of IDR 500,000.00 (five hundred thousand rupiah) [15].

The application of E-TLE fines in traffic is very important, including: (1) As law enforcement efficiency because traffic violations can be detected automatically and quickly, (2) As an effort to prevent violations because drivers will think twice before committing violations because drivers know that their violations can be detected easily. (3) As an effort to increase safety because with better detection and law enforcement, motorists will comply with traffic rules more thereby increasing road safety, and (4) As transparency because the ETLE system can provide visual evidence of traffic violations, which can help increase transparency and fairness in traffic law enforcement. Therefore, the role of criminal law and traffic police is very important in people's lives, especially in implementing E-TLE because it creates traffic rules to protect the safety of all road users, including drivers, passengers, pedestrians and cyclists. Criminal law and the police ensure that these rules are followed, thereby reducing the risk of accidents and protecting public safety. In addition, the criminal law and the police ensure that road conditions remain orderly and smooth because through the applied law it will certainly help prevent congestion and ensure efficiency in transportation, while ensuring that individuals who violate traffic rules are punished fairly. This will help society feel that there is justice and that everyone should obey the same rules.

V. CONCLUSION

Research related to the Criminal Threats of Using Fake Vehicle Numbers (TNKB) to Avoid E-TLE Tickets forms the conclusion that:

- 1. In the case of MDS using fake vehicle registration numbers to avoid E-TLE fines, it can be said that MSD has violated Law no. 20 of 2009 articles 68 and 69, as well as Perpol No. 7 of 2021. If the motorized vehicle number is related to the law and the regulation, the criteria are said to be false because: (1) the motorized vehicle number is not accompanied by a motorized vehicle number; (2) The identity of the owner, the registration number of the Motorized Vehicle, and the expiration date are different from what is recorded in the Motorized Vehicle Registration Certificate; (3) The Motor Vehicle Mark does not contain the proper area code, registration number and validity period; (4) The Motorized Vehicle Number does not meet the requirements for shape, size, material, color and method of installation; (5) The Motorized Vehicle Number is not registered and is not a Motorized Vehicle Trial Mark; (6) Motorized Vehicle Numbers are not registered in New Motorized Vehicles, Changes in Identity and Ownership of Motorized Vehicles, Extension of Motorized Vehicles, or Legalization of Motorized Vehicles.
- 2. Motorized Vehicle Number (TNKB) number used by MDS to avoid E-TLE fines meets these criteria and can be subject to criminal sanctions. Violations of the law such as the use of fake motorized vehicle registration numbers (TNKB) can be said to be illegal and have violated Law Number 20 of 2009 Articles 68 and 69 concerning Road Traffic and Transportation, as well as Republic of Indonesia National Police Regulation Number 7 of 2021 concerning Registration and Identification of Motorized Vehicles. Motorists can be caught in fraud article 263 paragraph 2 of the Criminal Code with a criminal penalty of 6 years. However, in Law Number 20 of 2009 Article 280 it is stated that: "Anyone who drives a motorized vehicle on a road that does not have a motorized vehicle number stipulated by the Indonesian National Police as referred to in Article 68 paragraph (1) shall be punished with imprisonment a maximum of 2 (two) months or a maximum fine of Rp. 500,000.00 (five hundred thousand rupiah).

Suggestions from the results of this study are to use the E-TLE system because (1) As law enforcement efficiency because traffic violations can be detected automatically and quickly, (2) As an effort to prevent violations because drivers will think twice before committing violations because drivers know that their violations can be detected easily. (3) As an effort to increase safety because with better detection and law enforcement, motorists will comply with traffic rules more thereby increasing road safety, and (4) As transparency because the ETLE system can provide visual evidence of traffic violations, which can help increase transparency and fairness in traffic law enforcement. Therefore, the role of criminal law and traffic police is very important in people's lives, especially in implementing E-TLE because it creates traffic rules to protect the safety of all road users, including drivers, passengers, pedestrians and cyclists. Criminal law and the police ensure that these rules are followed, thereby reducing the risk of accidents and protecting public safety. In addition, the criminal law and the police ensure that road conditions remain orderly and smooth because through the applied law it will certainly help prevent congestion and ensure efficiency in transportation, while ensuring that individuals who violate traffic rules are punished fairly. This will help society feel that there is justice and that everyone should obey the same rules.

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