

The Effect of Electronic Tickets on Violations of Article 359 of The Criminal Code

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ABSTRACT

The development of technology is very useful to help regulate traffic smoothly and keep road users safe. The electronic ticketing system is believed to replace manual tickets to assist the Indonesian National Police in recording various traffic violations committed by the public to be more efficient. A system that allows the dissemination of information to each police officer in real time can store data on traffic violators. In addition, electronic tickets are also useful for traffic violators, they can easily pay fines through online or banks listed on the confirmation letter. This research was conducted to analyze the effect of electronic ticketing on violators of Article 359 of the Criminal Code and the factors that influence the occurrence of violations in traffic. This research uses normative methods and uses secondary legal materials. Based on the formulation of the problems listed, it is concluded that the electronic ticket on violators of article 359 of the Criminal Code provides a good response to reduce the number of traffic accidents. The factors that influence traffic violators are divided into two, namely internal and external. It would be nice if the government through police officers more often provide socialization about electronic tickets to the public so that they understand and are deterred from the violations that have been committed.

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I. INTRODUCTION

Globalization and information technology are growing rapidly in various fields, one of which is in the field of transportation. Transportation is an activity to move people and goods from one place to another that is carried out in everyday life. The history of transportation began in prehistoric times when humans began using their feet as a means of transportation, then with the development of science humans used animal power as a driving force such as cows, camels, buffaloes, horses, and so on. Then in the 19th century transportation began to develop with the discovery of steam engines that produced steamships and steam trains. The development of transportation is getting faster where motorcycles, cars, planes, and ships have been found.

In terms of traffic, technological developments are very useful to help regulate traffic smoothly and keep road users safe. The role of road users has a big role in traffic order, but there are still people who commit various violations. Violations that often occur include violations by drivers who do not have a driver's license, drivers whose vehicles do not comply with regulations, drivers who do not wear helmets, violate traffic signs, violate road markings, and so on. Traffic violations cannot be denied because almost a large percentage of traffic accidents

are caused by several factors resulting from human actions intentionally or unintentionally because not all road users obey traffic rules and even violate them.¹

Efforts are made by law enforcement to provide sanctions and deterrent effects on traffic violators by mobilizing police officers for manual crossing in several locations where violations often occur. The main duties of police officers themselves are regulated in Law Number 2 of 2002 concerning the Indonesian National Police in Article 13, which reads maintaining security and public order, enforcing the law, and providing protection, protection and services to the community. In carrying out the main tasks contained in Article 13, the Indonesian National Police is also tasked with organizing all activities in ensuring the security, order and smoothness of traffic on the road.

In accordance with Article 272 paragraph (1) of the Law on Road Traffic and Transportation, electronic equipment may be used to support the enforcement of violations in the field of Road Traffic and Transportation. The electronic ticketing system is believed to replace manual ticketing to assist the Indonesian National Police in recording various traffic violations committed by the public to be more efficient. A system that allows the dissemination of information to each member of the police force in real time can store information data from these traffic violations. In addition, electronic tickets are also useful for people who commit traffic violations, they can easily pay fines through online or ATMs that cooperate with the Indonesian National Police.²

Research on the implementation of the electronic ticketing system has been done before. In 2019, a research by Lutfina Zunia Apriliana revealed that the effectiveness of the e-ticket application in paying fines for traffic violations at the Magelang Police Station was not effective. The results of research based on data findings in Magelang District, the e-ticket application at Magelang Police has not fulfilled the five indicators of the effectiveness of a program as proposed by Stees where the five indicators are indicators of productivity, work adaptability, job satisfaction, profitability and resource search.³ In her thesis, Dhona Indah Lestari (2022) explained that although the implementation of Electronic Traffic Law Enforcement (E-TLE) has not been fully successful, the fact that E-TLE encourages people to gradually become more aware of traffic regulations because they realize that the regulations are legal and implemented as intended. Although the implementation is still not perfect, law enforcement has been carried out as it should, but some people have not done it properly because there are still many people who believe that violations can still be avoided. But so far E-TLE has had a positive impact because it reduces existing violations and helps law enforcement agencies in enforcing traffic laws.⁴

Seeing the description above, the question that arises is how the effect of the implementation of the electronic ticketing system. Based on this background, the author is interested in researching the problem entitled **"THE EFFECT OF ELECTRONIC TICKETS ON VIOLATIONS OF ARTICLE 359 of the Criminal Code"**.

II. RESEARCH PROBLEMS

Based on the background that has been written, the researcher is interested in conducting research on the description of the effect of the implementation of electronic tickets on traffic offenders so that the formulation of problems in this study is:

1. How is the effect of electronic ticketing on violations of Article 359 of the Criminal Code in traffic accidents?
2. What are the factors that influence offenders in traffic violations?

III. RESEARCH METHODS

The type of research used in this article is normative legal research (legal research). Legal research that seeks data by examining secondary data or library materials alone can be referred to as library legal research (library legal study). Normative legal research is obtained from laws and regulations and library materials related to research.⁵ The approach in this research is to use a statutory approach (statue approach). This approach is carried out by examining the applicable laws and regulations in accordance with the problem being studied.

The data collection method in this writing uses primary legal materials consisting of Law Number 2 of 2002 concerning the Indonesian National Police and Law Number 22 of 2009 concerning Road Traffic and Transportation, as well as secondary legal materials themselves consisting of books, journals, articles, and the internet related to this research. This research uses a qualitative data analysis method because the data used cannot

¹ Hanny , Asmin Patros, Efektivitas E-Tilang bagi Pelaku Pelanggaran Lalu Lintas, 2023, *Jurnal Legal Spirit*, Vol. 7, Hal. 3

² Setiyanto, Gunarto, Sri Endah Wahyuningsih, 2017, Efektivitas Penerapan Sanksi Denda E-Tilang Bagi Pelanggar Lalu Lintas Berdasarkan Undang-Undang Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan (Studi Di Polres Rembang), *Jurnal Hukum Khaira Ummah*, Vol. 12, Hal. 756

³ Lutfina Zunia Apriliana, 2019, Efektivitas Penggunaan E-Tilang Terhadap Pelanggaran Lalu Lintas Di Polres Magelang, *Jurnal Komunikasi Hukum (JKH) Universitas Pendidikan Ganesha*, Vol. 5, Hal 5-8

⁴ Dhona Indah Lestasi, 2022, *Implementasi Tilang Elektronik Atau Electronic Traffic Law Enforcement (E-Tle) Terhadap Kesadaran Hukum Berlalu Lintas Masyarakat Di Wilayah Hukum Kepolisian Resor Kota Jambi*, Hal 51

⁵ Nurul Qamar, dkk, 2017, *Metode Penelitian Hukum (Legal Research Methods)*, Makassar: CV. Social Politic Genius (SIGn), Hal. 49-54

be measured with numbers. The data obtained from secondary data is collected and analyzed then put together in descriptive form so as to facilitate understanding and interpretation of the data.

IV. RESULT AND DISCUSSION

1. The Effect of Electronic Tickets on Violators of Article 359 of the Criminal Code

The implementation of the electronic ticketing system serves to facilitate speed and convenience, openness in the implementation of the ticketing process or as a substitute for the ticketing process on the spot (manual). Especially in the police, the electronic ticketing system is one of the Chief of Police's programs towards a professional, modern and trustworthy police.⁶ The implementation of electronic ticketing is carried out by installing CCTV (Closed-Circuit Television) at certain points such as traffic light intersections and points where traffic violations often occur. For people who commit violations, they will be recorded by CCTV so that the violator cannot refuse. CCTV controlled by the Automatic Traffic Control System (ATCS) will record traffic conditions including recording the license plate of traffic violators. violators will get a ticket sent to the address of the vehicle owner according to the license plate.⁷ Traffic offenders who are recorded by CCTV will have to pay a fine in accordance with the article violated. With this electronic ticket, traffic violators are facilitated in paying fines, namely they only need to pay fines to the bank directly through a teller, using an ATM, or simply using m-banking or e-banking.⁸

Article 359 of the Criminal Code states that "Any person through whose fault (negligence) another person dies, shall be punished by a maximum imprisonment of five years or a maximum light imprisonment of one year". Article 359 of the Criminal Code has the following elements:

a. The element of who

Whoever here means every person or legal subject who commits a criminal offense that can be held accountable in accordance with the applicable laws and regulations.⁹

b. The element of fault

The element of fault can be interpreted as lack of care, negligence, forgetfulness, negligence, or inattention. This means that the perpetrator or driver in driving is less careful in driving his vehicle, resulting in the loss of life of others.¹⁰ The elements of error or negligence that can cause accidents include:

- Negligence due to human factors, for example, drivers using smartphone, fatigue and drowsiness, driving a vehicle while unconscious or drunk, lack of understanding of traffic signs. In order for a person to be held criminally liable in a court of law, it must be determined that the perpetrator of the crime committed the error with intent (*dolus*) or negligence (*culpa*).
- Negligence due to vehicle factors, often accidents occur due to vehicles that are not properly maintained, lack of attention to tires and brakes, vehicle modifications not in accordance with regulations, and lighting.¹¹

c. The element of taking the life of another person

Based on the two elements described above, the perpetrator has actually willed the act to occur. However, the perpetrator did not want the result or what would happen after the act was committed so that in the end it resulted in the death of the victim.¹²

Related to this article, R. Soesilo in his book entitled *Kitab Undang-Undang Hukum Pidana (KUHP)*, explains that the death of victims in the event of a traffic accident here is solely not the will of the perpetrator, but because of the lack of caution or negligence of the perpetrator (*delik culpa*) in terms of driving a vehicle that ultimately causes the loss of life for other road users.¹³ In Article 359 of the Criminal Code, any person who through his fault takes the life of another person, in this case a traffic accident that takes the life of another person due to negligence. So the government has modernized to record accidents due to negligence with accurate evidence. In accordance with Article 272 paragraph (1) of the Road Traffic and Transportation Law to support the activities of prosecuting violations in the field of Road Traffic and Transportation, electronic equipment can be used. The

⁶ Yoga Dwi Arjuna, 2020, Implementasi Program E-Tilang Dalam Penegakan Hukum Pelanggaran Lalu Lintas Di Wilayah Hukum Polres Banyumas, *Advances In Police Science Research Journal*, Vol. 4, Hal 54

⁷ Maria Indriani, 2022, Efektivitas Penerapan E-Tilang Di Indonesia, *Jurnal Pengembangan SDM dan Pengembangan Publik*, Vol. 3, Hal. 55

⁸ Dessi Perdani Yuris Puspita Sari, Rani Hendriana, 2019, Pelaksanaan Sanksi Denda E-Tilang Bagi Pelanggar Lalu Lintas, *jurnal Volksgeist*, Vol. 2, Hal. 66

⁹ Sudikno Mertokusumo, *Mengenal Hukum Suatu Pengantar*, Liberty Yogyakarta. Yogyakarta. 1999. Hal. 68-69

¹⁰ Adami Chazawi, *Kejahatan Terhadap Tubuh Dan Nyawa*, PT Raja Grafindo Persada, Jakarta, 2001, Hal. 125

¹¹ Anggit Dwi Astuti, Ismunarno, 2020, Penerapan Tilang Elektronik Dan Pengaruhnya Terhadap Pelanggaran Pasal 359 Kuhp Di Kota Semarang, *Jurnal Recidive*, Vol. 9, Hal 12-13

¹² Qalby R. Suryanto, 2018, Kajian Yuridis Penerapan Pasal 359 Kuhp Terhadap Tindak Pidana Kealpaan Yang Menyebabkan Kematian Seseorang, *Jurnal Lex Crimen*, Vol. 7, Hal. 98

¹³ Nopiana Mozin, Lucyane Djafar, Jasmin Noho, 2020, Tinjauan Hukum Pidana Dalam Penerapan Pasal 359 Kuhp Pada Kasus Kecelakaan Lalu Lintas Oleh Hakim Pengadilan Negeri Gorontalo, *Jambura Journal Civic Education*, Vol. 2, Hal. 124

electronic equipment in question such as CCTV is used as an electronic ticket. This has been implemented for several years with quite good results to reduce the number of accidents that occurred before, although it has not been evenly distributed and effective due to the factor of people who do not know about the electronic system itself.

2. Factors Affecting the Occurrence of Traffic Violations

Traffic violations occur when a person violates the rules or road signs that have been regulated and can result in an accident. Traffic accidents can include a variety of actions, ranging from relatively minor to serious accidents. According to Article 229 paragraph (1) of Law Number 22 Year 2009 on Road Traffic and Transportation, traffic accidents are divided into three, namely minor, moderate, or severe traffic accidents. Minor accidents are accidents that often occur as accidents that result in damage to vehicles and/or goods, such as road user negligence, vehicle negligence, and road and/or environmental negligence. Meanwhile, moderate accidents are accidents that result in minor injuries and damage to vehicles and/or goods, such as violating parking rules, violating special lanes, not using SNI helmets, and others that result in minor injuries. Meanwhile, serious accidents are considered serious violations because they can endanger victims with serious injuries and even threaten the lives of the drivers themselves and other road users. Examples of serious accidents consist of reckless driving, drunk driving, violating red lights, crossing one lane roads that result in serious injuries or loss of life of the victim or the perpetrator himself.

The government has regulated traffic regulations so that traffic accidents that occur can be reduced. The Road Traffic and Transportation Law is the government's solution in this case the Indonesian Police officers to regulate their society in orderly and safe traffic for anyone who uses the road. Article 235 of the Road Traffic and Transportation Law regulates the obligations and responsibilities of drivers, motor vehicle owners, and/or transportation companies towards victims, as follows:

(1) If the victim dies as a result of a Traffic Accident as referred to in Article 229 paragraph (1) letter c (serious accident), the Driver, owner, and/or Public Transport Company shall provide assistance to the victim's heirs in the form of medical expenses and/or funeral expenses without nullifying the criminal case.

(2) In the event of injury to the victim's body or health as a result of a Traffic Accident as referred to in Article 229 paragraph (1) letter b and letter c (moderate and severe accidents), the driver, owner, and/or Public Transportation Company shall be obliged to provide assistance to the victim in the form of medical expenses by not nullifying the criminal charges.

These traffic accidents occur due to many factors that influence the perpetrators to violate traffic rules. Factors that influence traffic violations are divided into two, namely:

1. Internal factors (human factors)

a. Overloading

Overloading or excessive sharing can ultimately affect the performance of the vehicle. Overloading can lead to accidents not only for the driver but also for other road users. This is also regulated in Article 292 "Every person who drives a Motorcycle without a side carriage carrying more than 1 (one) Passenger as referred to in Article 106 paragraph (1).

person as referred to in Article 106 paragraph (9) shall be punished with a maximum imprisonment of 1 (one) month or a maximum fine of Rp250,000.00 (two hundred fifty thousand rupiah)".¹⁴

b. Fatigue

This second factor is often the reason for every driver who has a traffic accident. Fatigue or drowsiness can cause fatal accidents for drivers and road users. This happens because the driver is tired before driving, but still forces to drive and usually this is done for the reason of wanting to get to the destination quickly.

c. Excessive driving speed

The lowest speed in driving is 60 km / h in free flow conditions and the highest is 100 km / h if the freeway, this is a determination that has been determined nationally. But there are still people who ignore these determinations, so that people who drive in a hurry can endanger themselves and others.

d. Lack of driving skills

Lack of driving skills, lack of understanding of traffic rules or signs, lack of understanding of driving safely can add to the risk of accidents. For example, driving off the road or too far to the right and not maintaining a safe distance. Therefore, driving requires training and experience in order to get used to dealing with various traffic situations..¹⁵

2. External factors (vehicle and road factors)

¹⁴ Ade, Guruh Ardiyanto, 2021, *Analisis Faktor-Faktor Yang Mempengaruhi Kecelakaan Lalu Lintas Pada Pengguna Sepeda Motor Di Jalan Raya Lingkar Selatan Kabupaten Pati*, Skripsi, Hal 5-6

¹⁵ Marsaid, M.Hidayat, Ahsan, 2013, *Faktor Yang Berhubungan Dengan Kejadian Kecelakaan Lalu Lintas Pada Pengendara Sepeda Motor Di Wilayah Polres Kabupaten Malang*, *Jurnal Ilmu Keperawatan*, Vol.1, Hal. 103

a. Vehicle factors

Before traveling, it would be nice if the driver checks the vehicle whether it is correct and nothing is missing. Vehicle factors that often occur are the negligence of motorists in maintaining their vehicles. In addition, there are also safety equipment such as brakes and tires to reduce the speed of the vehicle, and vehicle lights are not lit can be dangerous, especially at night. To prevent traffic accidents from vehicle factors, there must be checks from the government to reduce the number of accidents.¹⁶

b. Road factors

Accidents do not only occur due to human factors and vehicle factors that are not considered, but road factors are also a determinant of traffic accidents. Article 25 of the Road Traffic and Transportation Law states that "Every road used for public traffic must be equipped with road equipment in the form of (traffic signs, road markings, traffic signal devices, road lighting devices, road user control and safety devices, road monitoring and security devices, facilities for bicycles, pedestrians, and people with disabilities, and supporting facilities for traffic and road transportation activities on the road and outside the road body), further provisions regarding road equipment are regulated by government regulations". Signs that are used as commands or instructions for motorists, traffic markings serve to provide directional traffic, road lighting installed on the right and left sides of the road serves as road lighting. An equally important factor in traffic accidents is damaged, bumpy, and potholed roads. If the road factor is inadequate and the driver is speeding, it can cause serious accidents..¹⁷

V. CONCLUSION

1. In Article 359 of the Criminal Code, any person who through his fault takes the life of another person, in this case a traffic accident that takes the life of another person due to negligence. So the government has modernized to record accidents due to negligence with accurate evidence. In accordance with Article 272 paragraph (1) of the Road Traffic and Transportation Law to support the activities of prosecuting violations in the field of Road Traffic and Transportation, electronic equipment can be used. The electronic equipment in question such as CCTV is used as an electronic ticket. This has been implemented for several years with quite good results to reduce the number of accidents that occurred before, although it has not been evenly distributed and effective due to the factor of people who do not know about the electronic system itself.
2. Traffic accidents occur due to many factors that influence offenders to violate traffic rules. Factors that influence traffic violations are divided into two, namely:
 - a. Internal factors (human factors) consist of overloading, fatigue, excessive driving speed, and lack of driving skills.
 - b. External factors consist of vehicle factors and road factors

It would be nice if the government through police officers more often provide socialization about the electronic ticketing system to the public so that they understand and are deterred from violations that have been committed.

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¹⁶ Umi Enggarsasi, Nur Khalimatus Sa'diyah 2017, Kajian Terhadap Faktor-Faktor penyebab Kecelakaan Lalu Lintas dalam Upaya Perbaikan Pencegahan kecelakaan Lalu Lintas, Jurnal Perspektif, Vol. 22, Hal. 234

¹⁷ Solikhin, 2021, *Analisis Faktor – Faktor Yang Mempengaruhi Kecelakaan Lalu Lintas Sepeda Motor Pada Ruas Jalan Purworejo - Magelang (Studi Kasus Ruas Jalan Margoyoso)*, Skripsi, Hal 10-11

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