

**EFFECTIVENESS OF CIREBON CITY REGIONAL REGULATION NO. 4
YEAR 2013 ON VIOLATIONS OF THE DISTRIBUTION AND SALE OF
ALCOHOLIC BEVERAGES IN CIREBON CITY****Yodie Pratama Yudha¹, Farhan Ahmad Fathurahman², Nur Hayati³, Harmono⁴,
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ABSTRACT

The objectives of this study are: a) To determine the effectiveness of Cirebon City Regional Regulation No. 4 of 2013 concerning the prohibition of the circulation and sale of alcoholic beverages in Cirebon City; b) To investigate the efforts of the Cirebon City government in tackling the circulation of liquor following the issuance of the Regulation of the Minister of Trade No. 20/M-DAG/PER/4/2014. This study uses a qualitative method. The population includes the Cirebon City Government and the Cirebon City DKUKMPP Office, where alcoholic beverages are sold. The sampling technique used allows the researcher to select information sources based on their relevance and ability to provide necessary data. The data analysis is conducted qualitatively, involving the following steps: 1) Completing any missing data to ensure it is comprehensive and accurate; 2) Reducing and summarizing collected data to focus on key points, which are then systematically organized. The research findings indicate that the circulation of alcoholic beverages in Cirebon City has many adverse effects and negatively influences its development as a City of Guardians. This prompted the local government to prohibit liquor circulation. However, the enforcement of this prohibition has been hindered by the issuance of the Minister of Trade Regulation No. 20/M-DAG/PER/4/2014, complicating efforts by Satpol PP to regulate liquor in certain areas of Cirebon City.

Keywords: Effectiveness, Liquor, Regional Regulations

INTRODUCTION

The use of liquor tends to increase and expand in various regions, both in big cities and small towns, even to the point that some people have lost their lives. This is because it is easy to get the liquor and at a relatively cheap price (Lindström, 2008; Yi et al., 2024). They coupled with less strict regulations regarding the prohibition of the circulation and consumption of liquor. As a result, the use of liquor is not as severe or dangerous as drug abuse, but the ease and cheapness of liquor can be obtained. Therefore, the use of liquor is more dangerous (Shi et al., 2022).

If someone consumes excessive amounts of liquor, conflicts with the community will be vulnerable (Peng et al., 2024). Consuming excessive amounts of liquor will cause personality disorders, so a person who has consumed liquor will become bolder and tend to be more aggressive. In such circumstances, he can commit a criminal act. To overcome the impact of liquor that can disturb the wider community, it is essential to

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make stricter laws and regulations regarding the circulation and use of liquor in the community (Verplaetse et al., 2023).

Regarding the circulation of liquor, it is not only the authority of the central government but also belongs to the local government (Li et al., 2024). Therefore, both the central government and local governments have their own authority to regulate liquor or liquor. However, in the context of the conflict between central and regional rules, here is the problem of circulation. Both have the authority to regulate it, so the liquor circulation system in each region in Indonesia is very diverse (Bramanta et al., 2020). Supervision and control of liquor circulation is the central authority, in accordance with Government Regulation (PP) Number 38 of 2007, concerning the Division of Government Affairs between the Central Government, Provincial Governments, and Regency or City Governments (Andrea, 2020).

Despite Presidential Decree No. 3 of 1997 concerning the Supervision and Control of Alcoholic Beverages, not all alcoholic beverages are prohibited, and their sale in certain places, such as cafes and hotels, is still allowed. The Presidential Decree also states that certain groups of alcoholic beverages can be circulated and sold in certain areas; this needs to be straightened out (Hanggara & Hoesein, 2024). Thus, it would be wise if the Ministry of Home Affairs in 2011 repealed as many as 351 Regional Regulations (SINAGA & Pinasang, 2024).

In practice, there are many laws that need to be synchronized or contradicted vertically from the higher to the lower (Audrine, 2021). For example, in 2013, the Cirebon City Regional Government issued Cirebon City Regional Regulation No. 4 of 2013 concerning the Prohibition of the Circulation and Sale of Berakhohol Drinks (hereinafter referred to as the Regional Regulation on the Prohibition of the Circulation and Sale of Berakhohol Drinks) where the substance of the Regional Regulation is the prohibition of the distribution and sale of all types of drinks containing Alcohol (Octaviyana, 2023). The consideration of the Cirebon City Government in issuing the regional regulation is that alcoholic beverages are products that can lower the health and moral status of the nation and are contrary to the vision of realizing the City of Cirebon for the period of 2013-2018, which is FRIENDLY (Religious, Safe, Advanced, Aspirational and Green) so that it is necessary to prohibit the circulation and sale of alcoholic beverages in Cirebon City (Bramanta et al., 2020).

Although local regulations have been enforced in Cirebon City, many liquor sales places are found in certain places such as hotels and illegal playgrounds with various groups of alcoholic beverages with a very large amount of alcohol being traded; even the liquor traders do not limit the number of drinks purchased so that buyers can buy liquor in large quantities so, providing opportunities by irresponsible traders to resell the liquor at stores that should not be sold by the public.

The objectives of this study are: a) To find out the effectiveness of Cirebon City Regional Regulation No. 4 of 2013 concerning the prohibition of the circulation and sale of alcoholic beverages in Cirebon City?; b) To find out the efforts of Cirebon City government in tackling the circulation of liquor after the issuance of the Regulation of the Minister of Trade No. 20/M-DAG/PER/4/2014.

RESEARCH METHODS

The method used in this study is qualitative. The population in this study is the Cirebon City Government through the Cirebon City Pamong Praja Police Unit Office and the Cirebon City DKUKMPP Office. To facilitate the range, the researcher chose a

sampling technique, that is, where the researcher selects and determines who will be the source of information, judging from their ability, for the data needed in this study (Ahmad et al., 2024; Djulaeka & Devi Rahayu, 2020; Widodo, 2021). The data analysis technique is carried out in a qualitative way, where data obtained from various sources related to the research objectives will continue to be processed from the beginning in the following ways: 1) Tidy up and complete the missing data if the data obtained from the field is not complete, then it must be completed until it becomes complete and accurate data. 2) Reduce the data that has been collected and will be summarized in such a way by highlighting or focusing on important things and then systematically compiling.

RESULTS AND DISCUSSION

Effectiveness of Cirebon City Regional Regulation No. 4 of 2013 concerning the Prohibition of Circulation and Sale of Alcoholic Beverages in Cirebon City

The Effectiveness of Regional Regulations in Regulating the Circulation of Liquor in Cirebon City is based on the results of the research obtained by the author from the purpose of the research location in the enactment of the Regional Regulation on Alcoholic Beverages in Cirebon City that the prohibition of liquor has been regulated in Regional Regulation Number 4 of 2013 concerning the Prohibition of the Circulation and Sale of Alcoholic Beverages. Although the Regional Regulation has been enforced, in reality, Cirebon City is still inseparable from liquor distribution.

There are several reference points of the Regional Regulation that cannot be implemented effectively, such as:

1. The level of alcohol control carried out by law enforcement officials has yet to be maximized.
2. Although there is no punishment for the seller other than the confiscation of evidence, especially liquor, the punishment factor is low or weak so that the seller is not discouraged by it.
3. Lack of community involvement in efforts to stop or limit the circulation of alcohol in their area.
4. Liquor and other alcoholic beverages can be purchased and obtained by minors easily.

The formation of the Regional Regulation is based on the development of Cirebon City, and there are many criminal acts that originate from the influence of alcoholic beverages, including fights that manifest in persecution and domestic violence, commotion that makes there is no calm in the population. This is caused by drinks with very high alcohol content, which results in a loss of consciousness from those who consume it, so it becomes the beginning of criminal acts or acts that disturb the community.

The reality in the field regarding the implementation of Government Regulations in supervising the circulation of alcoholic beverages in Cirebon City, based on data obtained through the results of an interview with one of the Informants who is the Chairman of the Cirebon City Satpol PP he said that: "Before the existence of Regional Regulation Number 4 of 2013 concerning the Prohibition of the Circulation and Sale of Alcoholic Beverages, the Satpol PP was not biased to regulate the circulation of liquor in Cirebon City, but after the existence of the Regional Regulation Number 4 of 2013 concerning the Prohibition of the Circulation and Sale of Alcoholic Beverages, the control of liquor can be carried out every month and as a result, the level of liquor

circulation in Cirebon City has decreased drastically between before the issuance of the regional regulation and after the issuance of the regional regulation.

From the data on Cirebon City Local Government Regulation Number 4 of 2013 concerning the Prohibition of the Circulation and Sale of Alcoholic Beverages and the results of the author's interviews with alcoholic beverage traders and community elements in the environment around the place where alcoholic beverages are sold, if it is connected with the theory of effectiveness, the effectiveness of regional regulations on liquor on its circulation in the community in Sorong City has been running well. However, considering that the risk of the rampant circulation of free liquor in Sorong City has a very bad effect on daily activities as well as the safety and tranquility of people living in Sorong City, it requires the Government to review or tighten the process of controlling and supervising Government Regulations that regulate it.

The spread of alcoholic beverages in Cirebon City, although it has been tightened by the local government in terms of controlling and supervising the sale of alcoholic beverages, it turns out that it cannot close the gates for certain parties who want to take advantage solely of the liquor trade. Many frauds are carried out by certain parties to avoid the complexity of administrative permits, such as selling illegal liquor, selling bootleg alcohol liquor, and even selling and buying alcoholic beverages without paying attention to the age limit of the buyer.

From the results of the research data, the impact of the circulation of alcoholic beverages on the community in the city of Cirebon, in addition to having many negative effects, also does not have a positive influence, especially in generating the Original Regional Revenue of Cirebon City from taxes and the distribution of alcoholic beverage sales licenses, which has an impact on the absence of an increase in community development in Cirebon City, because of Cirebon City Regional Government Regulation Number 4 of 2013 concerning Prohibition The circulation and sale of alcoholic beverages will not allow the Cirebon city government to withdraw the levy from the liquor. This is what makes the government prohibit liquor from circulating in Cirebon City as well as tighten supervision and control over its circulation in order to maintain order and tranquility in community life in Cirebon City.

Cirebon City Government's Efforts to Overcome the Circulation of Liquor After the Issuance of the Minister of Trade Regulation No. 20/M-DAG/PER/4/2014

After the issuance of Cirebon City Regional Regulation No. 4 of 2013 concerning the Prohibition of the Circulation and Sale of Berakhohol Drinks, where the substance of the regional regulation is the prohibition of the distribution and sale of all types of drinks containing Alkhohol, where the Cirebon City Government is considering the issuance of the regional regulation is that alcoholic beverages are products that can lower the health and moral status of the nation and are contrary to the vision of realizing Cirebon City for the period of 2013-2018, which is FRIENDLY (Religious, Safe, Advanced, Aspirative and Green) so that it is necessary to prohibit the circulation and sale of alcoholic beverages in Cirebon City.

The regional regulation fund is quite effective in reducing the circulation of alcoholic beverages in Cirebon City, but after the Minister of Trade issued ministerial decree No. 20/M-DAG/PER/4/2014 concerning Control and Supervision of the Procurement, Circulation, and Licensing of Berakhohol Drinks, wherein the regulation of the minister of trade regulates how drinks containing alcohol can be circulated and sold in trade, this ministerial regulation was later amended for the second time through the Regulation of the Minister of Trade No. 6/M-DAG/PER/1/2015 concerning the

Second Amendment to the Minister of Trade Regulation No. 20/M-DAG/PER/4/2014 concerning Control and Supervision of the Procurement, Circulation, and Licensing of Berakhohol Drinks (Ismanto et al., 2022; Nugraha & Putri, 2023; Rahmatiah et al., 2022).

The Regulation of the Minister of Trade regulates where and what kind of drinks can be traded and or circulated in trade, so in the city of Cirebon liquor is starting to circulate again in certain places in the city of Cirebon such as in hotels and entertainment venues and this is difficult to be ordered by the Pamong Praja Police Unit because business actors in selling liquor take refuge behind the Minister of Trade Regulation No. 20/M-DAG/PER/4/2014 concerning Control and Supervision against the Procurement, Circulation, and Licensing of Alcoholic Beverages where this becomes a dilemma and a blunder for the enforcement of the law on the circulation of alcoholic beverages in the city of Cirebon because on the one hand alcoholic beverages are prohibited in the city of Cirebon in accordance with Cirebon City Regional Regulation No. 4 of 2013 concerning the Prohibition of the Circulation and Sale of Berakhohol Beverages but on the other hand the circulation of alcoholic beverages is allowed by the Regulation of the Minister of Trade No. 6/M-DAG/PER/1/2015 concerning The Second Amendment to the Minister of Trade Regulation No. 20/M-DAG/PER/4/2014 concerning Control and Supervision of the Procurement, Circulation, and Licensing of Berakhohol Drinks (Audrine, 2021; Octaviyana, 2023).

From the above explanation regarding the laws of the Cirebon Regional Government number 4 of 2013, it can be concluded that there is a total ban on the circulation and trade of all beverage products that contain alcohol. However, on the contrary, there is a missynchronization with the Regulation of the Minister of Trade No. 6/M-DAG/PER/1/2015 concerning the Second Amendment to the Minister of Trade Regulation No. 20/M-DAG/PER/4/2014 concerning Control and Supervision of the Procurement, Circulation, and Licensing of Berakhohol Drinks.

The contradiction between the two regulations is between the regulations of Cirebon City Regional Regulation No. 4 of 2013 concerning the Prohibition of the Circulation and Sale of Berakhohol Drinks which are different hierarchies and the Regulation of the Minister of Trade No. 6/M-DAG/PER/1/2015 concerning the Second Amendment to the Minister of Trade Regulation No. 20/M-DAG/PER/4/2014 concerning Control and Supervision of the Procurement, Circulation, and Licensing of Berakhohol Drinks. From the feud, there is a question of what a Ministerial Regulation (Permen) is and how its position compares to Regional Regulations (Perda) (Octaviyana, 2023). This is because the existing rules only write the position of the Regional Regulation in the national legal hierarchy without mentioning the existence of the Ministerial Regulation. Then, what happens when the Regional Regulation (whose memorandum is written as part of the national legal hierarchy) is different from the Ministerial Regulation? Is the Ministerial Regulation not legally binding because it is not mentioned in the laws and regulations?

The basis for the implementation of regulations regarding the formation of Indonesian laws and regulations is Law Number 12 of the 2011 PPP. In Article 7, paragraph (1) it is stated as follows:

- (1) The types and hierarchy of Laws and Regulations consist of:
 1. the Constitution of the Republic of Indonesia in 1945;
 2. Decree of the People's Consultative Assembly;
 3. Government Laws/Regulations in Lieu of Laws;

4. Government Regulations;
5. Presidential Regulation;
6. Provincial Regional Regulations; and
7. Regency/City Regional Regulations.

The article does not mention the Ministerial Regulation as a type of legislation and regulation. However, law and regulation from the beginning to the end is a unity, so we must not only read the article but must read the next article, namely Article 8, which reads;

1. Types of Laws and Regulations other than those referred to in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly, the House of People's Representatives, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Financial Audit Board, the Judicial Commission, Bank Indonesia, Ministers, agencies, institutions, or commissions at the same level established by law or the Government by order of the Law, the Provincial Regional People's Representative Council, Governor, Regency/City Regional People's Representative Council, Regent/Mayor, Village Head or equivalent.
2. Laws and Regulations, as referred to in paragraph (1), are recognized for their existence and have binding legal force as long as they are ordered by higher Laws and Regulations or are formed based on authority.

The formulation of Article 8 paragraphs (1) and (2) states that one of the other types of laws and regulations other than those mentioned in Article 7 paragraph (1) is still recognized and binding on the condition that it is ordered by a higher law or established based on authority. One of them is the regulation set by the minister.

Although it does not use the phrase "Ministerial Regulation" but "... regulations set by the Minister ...", of course, the Ministerial Regulation in force in Indonesia is determined by the Minister in accordance with his authority and field and is generally an effort to revise a law as mentioned in Article 8 paragraph (1) of the PPP Law, then it can be classified that the Ministerial Regulation is part of the Indonesian laws and regulations. The same applies to the Regulation of the Minister of Trade of the Republic of Indonesia with the Regulation of the Minister of Trade No. 6/M-DAG/PER/1/2015 concerning the Second Amendment to the Minister of Trade Regulation No. 20/M-DAG/PER/4/2014 concerning Control and Supervision of the Procurement, Circulation, and Licensing of Berakhohol Beverages.

Ministerial regulations are an inseparable part of laws and regulations because they have fulfilled the elements of laws and regulations, namely written regulations, formed by State institutions or officials, through procedures stipulated in laws and regulations, and binding in general. Despite its existence not being mentioned in the hierarchy of laws and regulations (so it is unclear where its position is compared to the Regional Regulation), the Ministerial Regulation still has a "high" position compared to the Regional Regulation. The indicators can be seen from various regional regulations that are formed on the legal basis of the ministerial regulations.

This reason can be used as a basis to assess that the position of the Regional Regulation is under the Ministerial Regulation by considering numbers 41 and 43 of Appendix II of the PPP Law which explains that only regulations that have a higher or equal degree, can be used as the legal basis for a law and regulation and the order of inclusion of laws and regulations that must consider the hierarchy of laws and regulations.

Another indicator of why Ministerial Regulation has a higher position than Regional Regulation must start from the concept contained in Article 1, paragraph (1) of the 1945 Constitution: "Unitary State." "Unitary State" is not only in the sense of one regionally, but also the government and law. The consequence will be that the same legal system will apply in a country from the central to the regional level. For this reason, and comparing it with Article 18 paragraph (1) of the 1945 Constitution that "the Unitary State of the Republic of Indonesia is divided into provincial areas and the provincial areas are divided into districts and cities, where each province, district, and city has a regional government, which is regulated by law" so that it is concluded that the (government) of provinces, districts, and cities in Indonesia is an extension of the (central government) of the Unitary State of the Republic of Indonesia.

This is then combined with Article 4 paragraph (1) and Article 17 paragraph (1) of the 1945 Constitution so that it is made into a conclusion that the President, who is the head of state and head of government and assisted by ministers in carrying out his duties in the central government, is the "mother" of every province, district, and city as well as provinces, districts, and cities must always be in an inseparable unity with the central government executive who is under the command of a President. And ministers who are assistants to the President at the central level. One form of command unity is measured through harmonized legal products, including between the Ministerial Regulation and the Regional Regulation.

If there is a Regional Regulation that is indicated to be incompatible with the Ministerial Regulation, it can be submitted for judicial *review*. *Judicial review* is a testing process carried out by a judicial institution about the consistency of the law to the 1945 Constitution or laws and regulations to higher laws and regulations.

CONCLUSION

This study concludes that the effectiveness of Regional Regulation No. 4 of 2013 concerning the control and supervision of liquor circulation in Cirebon City has yet to be maximized. The Cirebon City Government prohibits the circulation of alcoholic beverages in an effort to create a conducive security and order situation. However, its implementation is still constrained by the overlap of regulations between the Regional Regulation and the Ministerial Regulation, which causes a large number of alcoholic beverages to circulate, both legal and illegal. Therefore, it is recommended that the Cirebon City Regional Government review the Regional Regulation to align it with the Regulation of the Minister of Trade, as well as revise Law No. 12 of 2011 concerning the Establishment of Laws and Regulations to include ministerial regulations in the legislative hierarchy, in order to avoid differences in interpretation and debate between the degree of Ministerial Regulation and Regional Regulations.

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