



## Legal Protection For Users Of Public Transportation Services (Passenger) Based On Law No. 22 Year 2009

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### ABSTRACT

Transportation or transportation is a very important field of activity in the life of the Indonesian people. However, in reality, transportation drivers often take actions that are considered to cause harm to passengers. The problems raised in this thesis are the legal position of service users (passengers) of public transportation as consumers of public transportation facilities, things that can cause harm to service users (passengers) of public transportation in carrying out transportation, and the form of legal protection provided by Law no. 22 of 2009 to service users (passengers) of public transportation. The writing method that underlies the writing of this thesis is the method of normative research and sociological research. In normative research, the author conducts research through regulations and legal materials related to this writing, while in sociological research, the author conducts research on one of the transportation companies in the city of Pematangsiantar, namely the transportation company CV. Masterpiece. The collection of data in writing this thesis is by library research, namely studying books, laws and regulations, lecture notes and other literature sources related to this thesis and field research, namely research carried out independently. directly to the object of research to collect the necessary data and information. In a carriage agreement, the position of the parties, namely the carrier and the service user, is equal. As for the things that can cause harm to passengers due to the fault of the carrier, among others, accidents caused by negligence of the driver, conditions of transportation that are not suitable for use, or due to lost or damaged passenger luggage. The government should increase the socialization activities of Law no. 22 of 2009, both to public transport operators and to the wider community as users of public transport services, so that legal protection efforts against public transport service users (passengers) as regulated in Law no. 22 of 2009 can actually be implemented by all public transportation companies.

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### 1. Introduction

Transportation or transportation is a very important field of activity in the life of the Indonesian people. The importance of transportation for the people of Indonesia is caused by several factors, among others, the geographical condition of Indonesia which consists of thousands of small and large islands, waters consisting of mostly seas, rivers and lakes that allow transportation to be carried out by land, water and air to reach all regions. Indonesia<sup>4</sup>. Another thing that is no less important is the need for transportation facilities, namely the need for comfort, security, and smooth transportation that supports the implementation of development in the form of spreading development needs, equitable development, and distribution of development results in various sectors throughout the country, for example, the

industrial sector, trade, tourist, In general, people who carry out movements with different goals need supporting facilities in the form of private transportation (cars, motorbikes) and public transportation (paratransit and mass transit). Paratransit public transportation is transportation that does not have a fixed route and schedule in operation along its route, while mass-transit public transportation is transportation that has a fixed route and schedule as well as a clear stopping place.

In general, most people are very dependent on public transportation to fulfill their mobility needs, because most of the people whose economic level is still relatively weak or most do not have private vehicles. The large number of groups that are still dependent on public transportation is not matched by the provision of adequate public transportation, especially in terms of transport capacity. As a result, almost all available public transportation is crowded with passengers. This causes passengers to try to choose other public transportation alternatives that are more comfortable, effective and efficient even though the costs are quite large.

This shows the importance of transportation in Indonesia, so that the development and improvement of the quality of transportation or transportation services is absolutely necessary. Good and quality development is not only about improving the quality of the facilities, but must also involve the development of the legal aspects of transportation itself.

Legal development should not only add new regulations or amend old regulations with new regulations but should also be able to provide legal certainty and protection for all parties related to the transportation system, especially users of transportation services. Considering the strategic importance of the role of road traffic and transportation which controls the livelihood of many people and is very important for the whole community, the construction and development of transportation infrastructure and facilities needs to be organized and developed in an integrated system<sup>6</sup> and the interests of the general public as users of transportation services need to get priority and optimal services from both the government and transportation service providers. In addition, legal protection for the rights of the community as transportation consumers must also get certainty.

The implementation of road traffic and transportation also needs to be carried out continuously and continuously improved so that the reach and services are wider to the community, while still taking into account the public interest, community capacity, environmental sustainability, and public order in the administration of road traffic and transportation while at the same time realizing a system of road traffic and transportation. reliable and integrated national transportation. The discussion on the development of transportation legal aspects cannot be separated from the effectiveness of transportation law itself. Transportation in Indonesia is regulated in the Civil Code in the Third Book on engagement, then in the Commercial Code in Book II title V. In addition, the government has issued policies in the field of land transportation, namely the issuance of Law no. 22 of 2009 concerning Road Traffic and Transportation as a Substitute for Law no. 14 of 1992, as well as Government Regulation No. 41 of 1993 concerning Road Transportation which is still valid even though PP no. 41 of 1993 is an implementing regulation of Law no. 14 of 1992 because it is stated in Article 324 of Law no. 22 of 2009 .

At the time of Law no. 22 of 2009 comes into force, all implementing regulations of Law Number 14 of 1992 concerning Road Traffic and Transportation (State Gazette of the Republic of Indonesia of 1992 Number 49, Supplement to the State Gazette of the Republic of Indonesia Number 3480) are declared to remain in effect as long as they do not conflict or have not been replaced. with the new one based on this Law. Article 2 and Article 3 of the Traffic and Road Transportation Law (hereinafter abbreviated as UULLA) regulates the principle and purpose of transportation.

With the enactment of Law no. 22 of 2009 is expected to help realize legal certainty for parties related to the implementation of transportation services, be it transport entrepreneurs, workers (drivers/drivers) and passengers. Operationally, transportation management activities are carried out by the driver or transportation driver where the driver is the party that binds Diti to carry out transportation activities on the orders of the transportation entrepreneur or carrier. The driver in carrying out his duties has a responsibility to be able to carry out his obligations, namely transporting passengers to the agreed destination safely, meaning that in the process of moving from one place to another, it can take place without obstacles and passengers are in good health, not experiencing danger, injury, sick or die. So that the purpose of transportation can be carried out smoothly and in accordance with the use value of the community.

## **2. Method**

This type of research was conducted using normative research methods and sociological research. In normative research, the author conducts research through regulations and legal materials related to this writing, while in sociological research, the author conducts research on one of the transportation companies in the city of Pematangsiantar, namely the transportation company CV. Masterpiece.

Research Library (Library Studies), namely studying and systematically analyzing books, laws and regulations, lecture notes and other literature sources related to the material discussed in this thesis in order to obtain scientific data as material in the theoretical description. Field Research (Field Studies), Field Research (Field Studies), namely research in the field to collect data obtained in the field, in the form of interviews conducted with transportation companies (to be precise in one of the transportation companies CV. Karya Agung, Jalan Sidamanik Number 8, Pematangsiantar This is aimed at achieving maximum reporting results regarding the form of legal protection provided by the transportation company whether it is in accordance with the provisions contained in Law No. 22 of 2009 concerning Road Traffic and Transportation. Data analysis in this paper uses qualitative data, which is a clear data analysis and described in the form of sentences so that a clear picture is obtained related to this thesis.

## **3. Analysis And Results**

### **3.1 Legal Position Of Public Transportation Services (Passenger)**

#### **a. Definition Of Services Users and Public Transportation**

The definition of service users in Article 1 number (22) of Law no. 22 of 2009 is an individual or legal entity that uses the services of a public transportation company. So it can be concluded that what is meant by people are service users and service users are passengers or shippers. Viewed from the parties in the agreement for the transportation of people, the service user (passenger) is a person who binds himself to pay transportation costs and on this basis he is entitled to obtain transportation services. 22 of 2009 passengers are people who are in a vehicle other than the driver and crew of the vehicle.

According to Article 1 number (12) of Law no. 23 of 2007 concerning Railways, stipulates that a service user is any person or legal entity that uses rail transportation services, both for the transportation of people and goods. Transportation according to Article 1 number (3) of Law no. 22 of 2009 is the transfer of people and or goods from one place to another by using a vehicle in the Road Traffic Room. Public transportation is a means of transportation for small and medium-sized people so that they can carry out their activities in accordance with their duties and functions in society.

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Public transportation, especially public transportation, is regulated in the Decree of the Minister of Transportation Number KM 68 of 1993 which has been updated to become the Decree of the Minister of Transportation Number KM 84 of 1999 concerning the Implementation of Transportation of People on the Road by Public Vehicles and the Decree of the Minister of Transportation Number KM 35 of 2003 concerning the Implementation of Transportation People on the Street.

The definition of transportation in the Decree of the Minister of Transportation No. KM.35 of 2003 concerning the Implementation of People's Transportation on the Road by Public Vehicles is the transportation of moving people and/or goods from one place to another by using a vehicle. Meanwhile, in the Government Regulation of the Republic of Indonesia Number 41 of 1993, it is stated that the definition of public transportation is the transfer of people and/or goods from one place to another by using a motorized vehicle provided for use by the public for a fee.

#### **b. Types of Public Transport**

- 1) Cross-Border Transportation;  
What is meant by cross-border transportation is transportation from one city to another that crosses state borders using public buses that are tied to the route (Explanation of Article 142 paragraph (1) of Law No. 22 of 2009).
- 2) Inter-City Inter-Province Transportation;  
What is meant by inter-city inter-provincial transportation is transportation from one city to another through regencies/municipalities that pass through one provincial area bound by a route (Explanation of Article 142 paragraph (2) of Law No. 22 of 2009).
- 3) Inter-City Transportation within the Province;  
What is meant by inter-city transportation within a province is transportation from one city to another between districts/cities within one province that is bound by a route (Explanation of Article 142 paragraph (3) of Law No. 22 of 2009).
- 4) Urban Transport;  
What is meant by urban transportation is transportation from one city to another in an urban area bound by a route (Explanation of Article 142 paragraph (4) Law no. 22 of 2009).
- 5) Rural Transport.  
What is meant by "rural transportation" is transportation from one place to another in one regency area that does not intersect with urban transportation routes.

#### **c. Regulations Regarding the Granting of Public Transport Permits in Indonesia**

According to Article 173 paragraphs (1) and (2) of Law no. 22 of 2009, a public transportation company that organizes the transportation of people and/or goods is required to have a transportation operation permit, both for the transportation of people on the route, the transportation of people not on the route or the transportation of special goods or heavy equipment. However, the obligation to have a transportation permit does not apply to the transportation of sick people by ambulance or the transportation of corpses.

According to Article 33 of the Decree of the Minister of Transportation Number KM. 35 of 2003, public transport licensing consists of a transportation business license, and a route permit or operating license. To obtain a transportation business license, there are several conditions that must be met, including (Article 36 of the Decree of the Minister of Transportation Number KM. 35 of 2003):

- 1) Have a Taxpayer Identification Number (NPWP);
- 2) Have a deed of establishment of a company for applicants in the form of business entities, deed of establishment of cooperatives for applicants in the form of cooperatives, identity cards for individual applicants;
- 3) Have a certificate of domicile of the company;

- 4) Have a place of business license (SITU);
- 5) Statement of ability to own or control 5 (five) motorized vehicles for applicants who are domiciled on the islands of Java, Sumatra and Bali;
- 6) A statement of ability to provide vehicle storage facilities

#### **d. Legal Position of Public Transport Service Users (Passengers)**

In a carriage agreement, the position of the parties, namely the carrier and the service user, is equal, unlike in a labor agreement where the parties are not of equal rank, i.e. the employer has a higher position than the worker. The position of the parties in a labor agreement is called a subordinate position (*gesubordineerd*), while the position of the parties in a transportation agreement is an equal position or coordination position (*gecoördineerd*).

From the point of view of the parties in the contract for the transportation of people, a passenger is a person who binds himself to pay the cost of transportation and on this basis he is entitled to obtain transportation services. According to the carriage agreement, the passenger has two statuses, namely as a subject because he is a party to the agreement and as an object because he is the cargo being transported. As a party to the carriage agreement, the passenger must be able to take legal actions or be able to make an agreement.

### **3.2 Legal Protection For Users Of Public Transportation Services (Passenger) Based On Law No. 22 Year 2009**

The enactment of Law Number 22 of 2009 concerning Road Traffic and Transportation, is motivated by the idea that Road Traffic and Transportation has a strategic role in supporting development and national integration as part of efforts to promote public welfare as mandated by the Constitution of the Republic of Indonesia. 1945. The good purpose of this law is to create traffic and prosperity for the people, the unity and integrity of the nation, and to uphold the dignity of Indonesia in the international world. Indonesia is currently ranked first in the level of traffic accident cases in ASEAN.

Road Traffic and Transportation as part of the national transportation system must develop its potential and role to realize security, safety, order, and smooth traffic and Road Transportation in the context of supporting economic development and regional development (Points a and b section considering Law No. 22 The year 2009). In addition, the development of the national and international strategic environment requires the implementation of Traffic and Road Transport in accordance with the development of science and technology, regional autonomy, and accountability for state administration (Point c section considering Law No. 22 of 2009).

Law Number 22 of 2009 concerning Road Traffic and Transportation has been enacted in the Plenary Meeting of the DPR RI on May 26, 2009 which was later ratified by the President of the Republic of Indonesia on June 22, 2009. This Law is a continuation of Law Number 14 of 2009 1992, it can be seen that the continuation is a significant development in terms of the number of clauses it regulates, namely from 16 chapters and 74 articles, to 22 chapters and 326 articles.

In the previous law, namely Law Number 14 of 1992, it was stated that to achieve national development goals as the practice of Pancasila, transportation has an important and strategic position in the development of an environmentally sound nation and this must be reflected in the mobility needs of all sectors and regions. Transportation is a very important and strategic means in facilitating the wheels of the economy, strengthening unity and integrity and influencing all aspects of the life of the nation and state. In contrast to Law No. 22 of 2009, this law sees that road traffic and transportation have a strategic role in supporting development and national integration as part of efforts to promote public welfare.

#### **a. Things That Can Cause Loss for Service Users (Passengers) of Public Transportation Due to Errors on the part of the Carrier**

In the previous chapter it has been stated that in general transportation aims to arrive at the destination safely and increase the use value for passengers and goods transported. Arriving at the destination means that the process of moving from one place to another takes place without obstacles and traffic jams, according to the planned time. Meanwhile, safely means that the passenger is in good health, not experiencing danger that results in injury, illness, or death

In fact, in the implementation of public transportation, accidents often occur which cause losses to the users of public transportation services (passengers). In Indonesia, in 2006 around 36 thousand people died due to road accidents, and 19 thousand of them involved motorcycle riders.

In Law no. 22 of 2009 there are regulations that aim to prevent accidents and other things that can cause harm to passengers in the operation of transportation. Regulations regarding drivers of public motorized vehicles, for example, where in Article 77 of Law no. 22 of 2009 it is stated that every person driving a public motorized vehicle on the road is required to have a driving license in accordance with the type of motorized vehicle being driven. The driver's license is proof that the driver of a general motorized vehicle is competent and has been fit to drive a public motorized vehicle.

#### **b. Responsibilities of the Carrier for Mistakes Made by the Carrier and Passengers that Cause Loss for Public Transportation Service Users (Passengers)**

In life in society, no one wants a transportation accident to occur, because the incident is clearly detrimental, both for service users (passengers) and the carrier, maybe even other parties who have nothing to do with transportation. If prior to the contract of carriage it is known that an accident will occur, then the transportation means will not be dispatched because it is known that there is a threat of danger that will occur. The occurrence of a transportation accident is not desired by all parties, especially the parties in transportation because it will cause material, physical, or loss of life.

#### **c. Forms of Legal Protection for Public Transportation Service Users (Passengers) as Consumers of Public Transportation Facilities. 22 Year 2009**

Public transportation is a public good, which means it is the right of every citizen to obtain good service in using public transportation services, and the provision of good means of transportation is the government's obligation. The government's obligation to facilitate its citizens to be able to carry out transportation activities is in line with the state's goal, namely to achieve a just and prosperous society. And to ensure the implementation of good and fair transportation for the community, the government is obliged to provide legal protection for users of public transportation services.

### **4. Conclusion**

In a carriage agreement, the position of the parties, namely the carrier and the service user, is equal. In the contract of carriage of people, a passenger is a person who binds himself to pay the cost of transportation and on this basis he is entitled to obtain transportation services. Passengers have two statuses, namely as a subject because he is a party to the agreement and as an object because he is the cargo being transported.

Things that can cause harm to users of public transportation services (passengers) due to errors on the part of the carrier, according to Law no. 22 of 2009 is an accident in transportation. While in the implementation of land transportation organized by CV. Karya Agung, things that can cause harm to service users (passengers) of public transportation due to errors on the part of

the carrier include accidents caused by the fault or negligence of the driver. Service users (passengers) can also suffer losses due to the condition (condition) of public transportation that is not in good condition and suitable for use, it can also be caused by passengers' belongings being lost, stolen, or falling on the road.

The legal protection of service users (passengers) of public transportation has been well regulated in Law no. 22 of 2009 concerning Road Traffic and Transportation, which in this law does not only contain the roles and responsibilities of the carriers and passengers but also regulates the roles and responsibilities of the government and society, as well as sanctions for parties who do not comply regulations contained in the law.

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