

Criminal Responsibility for Consumer Protection for Perpetrators of Illegal Cosmetics Crime in North Sumatra (Case Study Number: 3405/Pid.Sus/2018/Pn.Mdn)

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Abstract. Criminal liability is a legal obligation imposed on a person for a criminal act he or she commits, which is based on the existence of fault (intentionality or negligence) and the ability to be legally responsible. In English, namely criminal responsibility, the Greek word cosmetics means the skill of decorating. In the Great Indonesian dictionary, it is related to beauty. Criminal responsibility has a community relationship as a social control so that they do not commit criminal acts. In this issue, the author includes a formulation of the problem of how to regulate criminal liability for perpetrators of illegal cosmetics crimes in Indonesia. The research was conducted to find out the actions of the perpetrators of distributing cosmetics without a distribution permit. Based on the above explanation, the author draws the conclusion that cosmetics is that certain substances are used to make up and have an effect on the appearance of normative laws by researching literature materials, cosmetics are a basic need, especially women, it is not surprising that the demand for cosmetic products is increasing and varying. Criminal law regulations for perpetrators of the act of distributing cosmetics without a distribution permit are regulated in Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection Article 62 paragraph (1) and Law Number 36 of 2009 concerning health. Criminal liability for the perpetrators of the act of distributing cosmetics without a distribution permit is appropriate because it meets subjective elements.

Keywords: criminal Liability; consumer Protection; Illegal

Introduction

Every human being wants to look perfect in terms of appearance. It is something natural, to get the perfect look of a person taking care of themselves with various care products. Various treatments are offered to support a person's appearance, one of which is the use of cosmetics. In the modern era, cosmetic products are one of the necessities of human life and can be categorized as a primary human need. Cosmetics are not only needed by women but cosmetics are also a necessity for men. As the desire to look more attractive increases, the demand for cosmetics is increasing.

Cosmetics comes from the Greek word, *cosmetics* meaning decorating skills. Cosmetics according to the Indonesian Dictionary are everything related to beauty. Meanwhile, the definition of cosmetics in the Regulation of the Minister of Health of the Republic of Indonesia No. 445/Menkes/Permenkes 1998 cosmetics is a preparation or combination of ingredients that is ready to be used on the outside of the body (epidermis, hair, nails, lips, and external organs), teeth, and oral cavity to clean, increase attractiveness, change the appearance of protecting for the better, improve body odor but is not intended to treat or cure a disease. Cosmetics have many benefits, namely cleansing the skin of the body and scalp,

camouflaging wrinkles, tightening the skin, thickening hair, camouflaging facial blemishes such as freckles and spots, brightening the skin, beautifying a person more confidently. (Khodijah & Fasa, 2023)

Legal standards regarding cosmetics in Indonesia are strictly regulated to ensure the safety, usefulness, and quality of products for the public. Based on the Regulation of the Minister of Health Number 445/1998, cosmetics are defined as preparations or combinations of ingredients used on the outside of the human body such as the epidermis, hair, nails, and lips for the purpose of cleansing, increasing attractiveness, or improving body odor, but it is emphasized that cosmetics are not intended to treat diseases. By regulation, every cosmetic product can only be distributed in the market after obtaining a distribution permit or notification number from the Food and Drug Supervisory Agency (BPOM) as stipulated in Article 106 of Law Number 36 of 2009 concerning Health. This distribution permit serves as a legal instrument to distinguish between legal and illegal products and as a form of state control over the safety of products consumed by the public. (Prasetyo & Gunadi, 2023)

Regarding cosmetics, of course, there are rules that take care of or concentrate on cosmetics, must have a distribution permit if there is a violation or if someone sells cosmetics that do not have a distribution permit, it means that they have violated the provisions of Article 2 Letter C of the Health Law Number 36 of 2009 concerning Health (Health Law) and also the Head of BPOM also violates Article 10 Paragraph 1 of the Health Law because the article explains the cosmetics to be sold It should not be sold carelessly because it must be registered first, after which only get a distribution permit from BPOM, after that everything has been carried out, then cosmetics can only be distributed or sold to the market or to users. (Songgigilan, 2021)

For every person who deliberately sells or distributes pharmaceutical preparations that do not have a distribution permit, of course there is an article that can ensnare him with criminal penalties in order to provide a deterrent effect to every perpetrator, regarding it is regulated in Article 197 of the Health Law, even not only criminal sanctions but this article also provides a fine of Rp 1,500,000,000.00 (one billion five hundred million rupiah), the article regulates the sanctions, but Article 106 Paragraph 1 of the Health Law regulates the pharmaceutical preparations. (Soni, 2021)

The distribution permit issued by the Food and Drug Supervisory Agency (BPOM) aims to protect the public from harmful cosmetic products. The consequence of such administrative provisions is that the government is authorized to revoke permits and withdraw products from markets that have previously received permits. In addition, there are also criminal provisions to avoid procurement, misuse in the use of medical devices or pharmaceutical preparations so as to endanger the community from parties who do not have a sense of responsibility, distributing cosmetics without a distribution permit which is regulated by criminal provisions article 106 and article 197 in the Health Law. (Asrun et al., 2021)

Counterfeit cosmetics are basically the misuse or use of official industry brands on products that do not conform to industry standards. The content in fake cosmetics is not in accordance with the official cosmetic content. The ingredients used in fake cosmetics do not meet the standards of the health minister, and do not have a distribution permit. Consumers also have the right to comfort, security, and safety in consuming the goods they buy so that the information provided by business actors to consumers is clear and becomes a benchmark for consumers to buy them. (Louhenapessy, 2024)

The dangers of counterfeit or illegal cosmetics pose a serious risk to health because they are generally manufactured without meeting the health standards set by the government. These products often contain harmful chemicals such as mercury, hydroquinone, and tretinoin that can cause permanent skin damage to other serious health problems. In addition to the aspect of chemical substances, fake cosmetics are a form of abuse of official industry brands whose content does not conform to the standards of original cosmetic content. The use of products that do not have a distribution permit is not only physically harmful, but also causes financial losses for consumers who have to bear medical costs due to the adverse effects of the product. (Patricia & Gunadi, 2024)

Business actors who distribute cosmetics without a certain distribution permit can be dangerous, not only violating the provisions of Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as the Consumer Protection Law). Where in the Consumer Protection Law article 7 which regulates the obligations of business actors in selling goods and or services, including:(Putra & Priyantini, 2021)

In good faith in carrying out their business activities.

Provide true, clear and honest information about the condition and warranty of goods or services and provide an explanation of use, repair and maintenance.

Treat or serve consumers correctly and honestly and not discriminatory.

Ensuring the quality of goods and services produced, or traded based on the provisions of applicable quality standards of goods and or services.

Providing opportunities for consumers to test, and/or try certain goods and or services and providing guarantees, and/or warranties for goods made and/or services traded.

Provide compensation, compensation and/or reimbursement for losses due to the use, use and utilization of goods and or services traded.

Providing compensation, compensation and/or replacement of goods and or services received or utilized not in accordance with the agreement.

Cosmetics that do not meet technical requirements and do not have a distribution permit from the POM Agency are prohibited from trading because they will endanger the health of consumers. Law Number 36 of 2009 concerning health which explains, Therefore, cosmetic products can only be circulated after obtaining a distribution permit and have met the requirements as stipulated in Article 106 of the Health Law.(Andra et al., 2023)

In addition, based on article 2 paragraph (1) of the Regulation of the Minister of Health Number 1175/Menkes/Per//VIII/2010 concerning cosmetic product permits. Cosmetics in circulation must meet the requirements for quality, safety, and usefulness must be in accordance with the Indonesian cosmetics code and other requirements set by the minister in charge of government affairs in the health sector.

The standard requirements for cosmetic distribution in Indonesia focus on the legality and safety of products that must be met by every business actor. Based on Article 106 paragraph (1) of the Health Law, every cosmetic can only be distributed after having a distribution permit or an official notification number from the Food and Drug Supervisory Agency (BPOM). In addition to legality, the product must meet quality, safety, and usability requirements in accordance with the Indonesian Cosmetic Code and standards set by the Minister of Health. Business actors also have an obligation to act in good faith, ensure the quality of goods based on applicable standards, and provide true, clear, and honest information about product conditions to consumers.(Suhardi & Kusumaningsih, 2025)

A product that does not meet the standard criteria or is categorized as illegal, then various legal regulations can be applied strictly. Perpetrators who distribute cosmetics without a distribution permit can be charged with criminal sanctions based on Article 197 of the Health Law with a threat of imprisonment of up to 15 years and a maximum fine of IDR 1.5 billion. In addition, business actors can be subject to administrative sanctions in the form of withdrawal of products from the market, revocation of licenses, and business closure by the authorities. In terms of consumer protection, when the product does not meet the safety criteria, business actors are obliged to provide compensation or compensation for health damage experienced by users in accordance with the provisions of the Consumer Protection Law.

Method

The research method used in this study combines normative juridical approaches and empirical juridical approaches. The normative juridical approach is carried out by examining various laws and

regulations, legal principles, doctrines, and literature related to criminal liability, consumer protection, and regulation of the circulation of illegal cosmetics in Indonesia. Meanwhile, an empirical juridical approach is used to look at how the legal provisions are applied in practice through the collection of primary data. Primary data was obtained from field research through interviews with the authorities, especially at the Medan Food and Drug Supervisory Center (BBPOM). In addition, this study also uses secondary data obtained from literature studies, such as books, journals, laws, and other official documents.(Wisconsin, 2024)

The research location is the place where the researcher obtains information regarding the necessary data. The research location is the place where the research will be conducted. For example, in schools, companies, government agencies, roads, houses, markets and others. The selection of research locations must be based on considerations of attractiveness, uniqueness, and suitability with the chosen topic. With the selection of this location, researchers are expected to find meaningful and new things. This research aims to get a clearer, complete, and easier and easy picture and information for researchers to conduct research. In this case, the author chose the research location: the Food and Drug Supervisory Center which is located at Jln. Willem Iskandar Pasar V Barat I N. 2 Medan-Estate, Medan 20371 North Sumatra Province.

The data collection technique in this study was carried out through two main methods, namely literature studies and field studies. Literature studies are used to obtain secondary data by reading, studying, citing, and analyzing various sources such as books, journals, legal literature, and laws and regulations that are relevant to the issue of criminal liability for the circulation of illegal cosmetics.(Jailani, 2023) Meanwhile, the field study was used to obtain primary data through direct interview activities with sources related to the research, especially the Medan Food and Drug Supervisory Center (BBPOM). The two methods complement each other to provide a strong data foundation both from theoretical and practical aspects.

The data analysis in this study uses a qualitative method, namely processing and interpreting data obtained from the results of literature studies and in-depth field studies. The data that has been collected is then systematically compiled to be linked to the formulation of the research problem. The analysis process is carried out by presenting the findings, comparing them with applicable legal provisions, and assessing the suitability of law enforcement practices to existing theories and regulations. Thus, data analysis not only outlines the facts, but also provides interpretations to draw conclusions about legal regulations, the impact of illegal cosmetics trafficking, and the criminal liability of the perpetrators.(Septiana et al., 2024)

Results and discussion

Regulation on Criminal Liability for Perpetrators of Cosmetic Crimes in Indonesia

Criminal liability for perpetrators of illegal cosmetics crimes begins with the understanding of business actors defined in Government Regulation No. 58 of 2001 as any person or business entity that carries out economic activities in Indonesia. This definition is important because it determines the legal subject who can be held accountable in the event of a violation in the circulation of cosmetic products. Business actors have a central position in the production and distribution chain, so the responsibility for product safety and legality is attached to them.(Suriyati & Salim, 2025)

It is the obligation of business actors to ensure that every cosmetic product marketed meets the safety, quality, and benefit standards determined by the state. These obligations include the correct application of production standards, the use of permitted materials, and the disclosure of information related to product content and risks. This aspect is strengthened by the provisions of the Consumer Protection Law which requires business actors to act honestly and responsibly in marketing products.(Soemarwi & Ridzka, 2023)

Arrangements regarding distribution permits or BPOM notifications were one of the main focuses in the discussion. Before a cosmetic can be circulated, the product must be approved by BPOM as a form of initial state control over the safety of products that will be consumed by the public. This distribution permit is also a legal instrument to distinguish legal and illegal products. The distribution of cosmetics without a distribution permit is a serious violation because it has the potential to endanger consumer safety. (Suryono & Nadifah, 2025)

From a criminal law perspective, the production or distribution of cosmetics without a distribution permit is categorized as a criminal offense with a fairly severe threat of punishment. Law Number 36 of 2009 concerning Health, especially Article 196 and Article 197, provides a threat of imprisonment of up to 15 years and a maximum fine of Rp1.5 billion for perpetrators who produce or distribute cosmetics that do not meet standards or do not have a distribution permit. This provision shows that the state takes the existence of illegal cosmetics seriously because its impact is very detrimental to society.

Criminological perspective related to the rampant circulation of illegal cosmetics. This phenomenon is increasingly developing through digital platforms such as social media and marketplaces, thereby expanding distribution networks and making supervision more difficult. The mode of illegal cosmetic circulation generally takes advantage of low prices, excessive claims, and aggressive marketing, thereby attracting consumer interest without paying attention to safety aspects. From the criminological review, economic factors and low consumer literacy have also encouraged the increase in cases of illegal cosmetic trafficking.

In addition to health law, the Consumer Protection Law also provides an important juridical basis in handling illegal cosmetics. Consumers have the right to correct information, product safety, and compensation mechanisms if they suffer losses due to the use of illegal cosmetics. Through the UUPK, business actors can be held to civil or criminal liability if proven to be distributing dangerous products or violating the provisions of the law. This provision strengthens the consumer protection system in the context of cosmetics circulation. (Filan et al., 2024)

Impact Caused or Illegal Cosmetic Crime in North Sumatra

Products that do not have BPOM distribution permits, contain harmful chemicals such as mercury, hydroquinone, and tretinoin, and are produced without proper health standards. These products are often marketed at very low prices and appear attractive so that they deceive consumers who do not understand the dangers that threaten their health. This condition is exacerbated by technological developments that facilitate promotion and distribution through social media and digital platforms.

From a legal point of view, the circulation of illegal cosmetics is a serious violation that can be subject to criminal and administrative sanctions. The act of distributing cosmetics without a distribution permit or with harmful ingredients is an unlawful act as regulated in the Health Law and the Consumer Protection Law. Business actors can be charged with imprisonment, large fines, and additional sanctions in the form of confiscation of goods, business closure, or withdrawal of products from circulation. BPOM also has the authority to provide administrative sanctions and take direct action against violating business actors. (Buloto et al., 2025)

The existence of illegal products is detrimental to business actors who comply with the rules because illegal products are sold at much cheaper prices. This lowers the turnover of legal products and damages the image of the cosmetics industry as a whole. From the state side, the circulation of illegal products causes losses in the form of loss of potential taxes and increased public health costs due to the adverse effects of dangerous products. Consumers also bear financial losses because they have to cover medical expenses and purchase products that turn out to be unsafe. (Asfah et al., 2025)

Preventive measures for the circulation of illegal cosmetics. BPOM, the police, and related ministries work together to tighten supervision, conduct raids, provide education to the public, and warn consumers about products that prove to be dangerous. Cooperation between national and international agencies is also an important part in preventing the entry of dangerous products from abroad. In

addition, consumer education on how to recognize safe cosmetics, the importance of checking BPOM notifications, and being aware of unreasonable prices are important steps to reduce the risk of using illegal cosmetics.(Erni & Hasuri, 2025)

Countermeasures are one of the important parts of the discussion, where BPOM, police, local governments, and related ministries take preventive and repressive measures to combat illegal cosmetics. These efforts include raids, criminal prosecutions, the imposition of administrative sanctions, the withdrawal of dangerous products, public education, and cooperation across national and international agencies. Consumer education about the dangers of illegal cosmetics and the importance of checking BPOM distribution permits is a strategic step to reduce risks. This collaboration is expected to create a healthy market environment while protecting the public from the dangers of using illegal cosmetics.(Maulida et al., 2025)

Criminal Responsibility for Perpetrators of Illegal Cosmetics Crime in North Sumatra with Case Decision Number 3405/Pid.Sus/Pn.Mdn

In this case, the business actor was found guilty of distributing cosmetics without a distribution permit and not meeting the safety standards set by the government. The facts of the trial show that the products distributed do not have an official notification number, so they are included in the category of illegal cosmetics that have the potential to endanger public health. Law enforcement in this case showed that the panel of judges sentenced the perpetrator to four months in prison. However, BPOM views that the punishment has not provided a maximum deterrent effect. Therefore, BPOM continues to take administrative steps in the form of withdrawing products from circulation, coaching business actors, and increasing supervision at distribution points that are considered prone to becoming centers for the spread of illegal cosmetics.

Law enforcement against illegal cosmetics does not only rely on court decisions, but also on the systematic efforts of BPOM and related agencies. BPOM collaborates with the police and health offices in conducting field operations, inspection of distribution facilities, and confiscation of illegal products. This effort is carried out periodically because the circulation of illegal cosmetics often takes advantage of digital access, including social media and online trading platforms that are difficult to supervise conventionally.

The criminal responsibility of business actors is further analyzed through the fulfillment of elements *Actus Reus* and *Mens Rea*. Business actors are considered to have committed intentional acts because they know that the products being distributed do not have a distribution permit but still market and profit from the act. The Health Law places this act as a serious crime because it has the potential to endanger public health, so criminal threats regulated through Article 197 can reach up to 15 years in prison and a large amount of fines.(Ar et al., 2024)

Not only the criminal aspect, business actors can also be subject to administrative and civil sanctions. Administrative sanctions can be in the form of business closure, revocation of business licenses, confiscation of evidence, and destruction of products that do not meet the provisions. Meanwhile, from the civil aspect, consumers who suffer losses have the right to claim compensation for health damage or financial losses due to the use of illegal products. This shows that the accountability of business actors is multidimensional, not limited to the criminal realm only.(Wawo et al., 2024)

This act lowers public trust in cosmetic products in the market, especially local brands that have actually met health standards. In addition, illegal cosmetics can cause public unrest due to the large number of cases of skin damage caused by harmful products. This condition strengthens the argument that consumer protection is one of the main goals of law enforcement in illegal cosmetics cases.(Makalam & Khairunnisa, 2024)

Preventing the circulation of illegal cosmetics requires continuous collaboration between the government, law enforcement officials, business actors, and the public. Public education is an important strategy so that consumers are more critical in choosing products and ensuring their legality through

BPOM distribution permits. With a combination of repressive and preventive measures, it is hoped that the circulation of illegal cosmetics can be suppressed, so that public health is protected and a healthy business climate can be created in a sustainable manner. (Piloto *et al.*, 2025)

Conclusion

The circulation of illegal cosmetics in North Sumatra is still rampant due to low consumer awareness and weak supervision of business actors on the provisions of distribution permits. Illegal cosmetics that are in circulation generally contain harmful ingredients such as mercury, hydroquinone, and other chemicals that can cause skin damage to serious health problems. From a legal aspect, the circulation of illegal cosmetics is an act that violates the Health Law and the Consumer Protection Law, so that the perpetrators can be subject to criminal, administrative, and civil sanctions. Law enforcement carried out by BPOM and law enforcement officials has been running, but it has not provided a maximum deterrent effect so that integrated supervision, public education, and strict enforcement still need to be improved to protect the public from the dangers of illegal products.

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