



**JURIDICAL ANALYSIS OF LAW NUMBER 22 OF  
2009 JO. MINISTER OF TRANSPORTATION  
REGULATION NUMBER 12 OF 2019  
REGARDING THE PROHIBITION  
OF SMOKING WHILE DRIVING**

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**Abstract:** Increased public mobility and the growth of motor vehicles have changed the dynamics of cross-traffic safety and safety significantly. The main attention turned to the issue of smoking while driving, which is not only a violation of social ethics, but also increases the risk of traffic accidents. This research uses normative jurisprudential research methods. The results show that the implementation of smoking-related regulations regarding driving is still not well implemented. The rules related to the smoking ban while driving are not fully implemented because still many drivers smoke while driving. The study found some obstacles to the prohibition of smoking while driving, including a lack of public awareness and low compliance with the rules. Weak law enforcement and the lack of effective sanctions are also one of the obstacles in efforts to enforce rules related to smoking while driving. Awareness of the dangers of smoking while driving needs to be raised. That requires further efforts through education, regulatory implementation, and consistent law enforcement to a safer driving environment.

**Keywords:** Safety Driving, No Smoking, Smoking While Driving

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## **Introduction**

Increased community mobility along with the growth of motorized vehicles has had a significant impact on traffic safety and security. In the dynamics of this change, the issue of smoking while driving has become the main focus, not only as a violation of social ethics, but also as a potential increase in the risk of traffic accidents. Smoking behavior while driving not only poses a threat to the comfort of road users, but is also a major factor causing accidents because it can disrupt the driver's focus.

Smoking is a habit for some people, smoking can be enjoyable for some people, but it can be dangerous for those who smoke and the people around them (Afni Aisy Haq, Inur Tivani, 2021). Meanwhile, according to Bustan, it is very easy to find people smoking everywhere, especially men and women, small children, old people, rich and poor people. Cigarette addicts proudly smoke them in public places, offices, homes, and especially when driving on the highway.

When driving, we must prioritize safety so that traffic accidents do not occur by avoiding behavior that poses a risk of traffic accidents. One example of behavior that causes traffic accidents is smoking while driving, this behavior is very detrimental to other people. The activity of smoking while driving reduces the driver's concentration and can cause accidents, endangering passengers or other road users (Ayu & Gde Shuba, 2020).



Smoking while driving endangers both the smoker and other people around him. Smoking not only has a negative effect on health, but also reduces the driver's concentration. For example, cigarette smoke and tobacco ash can hinder drivers behind or to the side, and tobacco ash can distract other drivers. (Hanana, 2021).

The regulations regarding smoking while driving in Batam are still not perfect. According to Rustam Efendi, Head of the Batam City Transportation Service (Dishub), the Republic of Indonesia Minister of Transportation Regulation Number 12 of 2019 concerning Safety Protection for Motorbike Users Used for Public Interest is still being studied. As a result, most drivers in Batam continue to smoke while driving. In addition, these findings show that policy implementation is still not optimal, especially in terms of public awareness and consistent law enforcement.

To improve traffic safety, further efforts are needed to increase public awareness of the dangers of smoking while driving as well as stricter law enforcement. The two main obstacles to implementing regulations prohibiting smoking while driving are the lack of law enforcement and low levels of public awareness. In this effort, elements such as legal education, awareness campaigns, and policy evaluation should be included as key steps to achieve traffic safety. (Heliyana & Dewi Kumala Ratih Komang Ni, 2022).



Therefore, the government issued Minister of Transportation Regulation (Permenhub) Number 12 of 2019 concerning Protection of the Safety of Motorcycle Users, which was made for the public interest, stating, "Drivers are prohibited from smoking and carrying out other activities that disturb concentration while riding a motorbike." These regulations stipulate that, if someone violates these smoking regulations, smoking laws will be enforced. As is known, smoking while driving is an act that violates traffic safety, according to Traffic and Road Transport Regulations Number 22 of 2009 prohibiting smoking on the road.

Based on the data above, a problem arises, namely regarding the legal culture of society based on Law Number 22 of 2009 Jo. Minister of Transportation Regulation Number 12 of 2019 in the community regarding the prohibition of smoking while driving? And what are the obstacles faced in efforts to increase public understanding of the dangers of smoking while driving?

## **Methods**

The research used is normative juridical legal research which focuses on positive legal studies. Normative juridical research is legal research that places law as a building system of norms. The norm system in question is about principles, norms, rules of laws and regulations, court decisions, as well as doctrines or teachings. Another name for normative



legal research is doctrinaire legal research, also referred to as library research or document study. It is called doctrinal legal research, because this research is carried out or aimed only at written regulations or other legal materials. It is said to be library research or document study because this research is mostly carried out on secondary data in libraries.

In accordance with the character of normative legal science, the study of positive law includes the study of legal dogmatics, the study of legal theory, and the study of legal philosophy. At the level of legal dogmatics, emphasis is placed on identifying several laws and regulations related to the social system in Indonesia, while at the level of legal theory, a study is carried out on theories that can be used to analyze the legal system, legal certainty, the operation of the law and property rights. towards the legal construction of copyright as an object of fiduciary security based on legal certainty and usefulness. A research approach is a method or way of conducting research so that researchers obtain information from various aspects to find the issue they are looking for an answer to. In accordance with the type of research, namely normative juridical, the research approach used in this research is: Normative/Statute Approach

This research method uses a normative juridical approach, focusing on analytical library materials such as literature and laws that are relevant to the problems studied. This approach describes law as a norm that pays attention to a person's behavior or can be said to regulate human behavior.



The regulations used as a reference in this research are the smoking prohibition regulations contained in "Permenhub No.12 of 2019" and "UU No.22 of 2009".

## **Results / Discussion**

### **1. Community Legal Culture Based on Law Number 22 of 2009 and Minister of Transportation Regulation Number 12 of 2019 in Society Regarding the Prohibition of Smoking While Driving**

Implementation of Law Number 22 of 2009 Jo. Minister of Transportation Regulation Number 12 of 2019 is still not being implemented properly, this can be seen from the number of drivers who violate the rules by smoking while passing traffic (Pradana & Michael, 2022). It cannot be denied that seeing people smoking while driving on the road is very annoying. Ash or even embers from the driver's cigarette can fly into other drivers, which can harm other road users. Regarding safety, smoking while driving is very dangerous for other drivers around you, because they can be exposed to ash, smoke or burning embers from the cigarette. This activity also has a bad impact on health.

Motorcyclists who commit smoking while riding violations generally understand the laws relating to the prohibition of smoking while riding and are aware of the negative effects it has on themselves and others. However, these motorcyclists do not realize the importance of respecting



each other for the safety, security and comfort of other riders (Feggy Siqihadi, Saryono Hanadi, nd). Apart from that, the lack of clear enforcement of regulations means that there are still many people who violate smoking while driving.

Based on Law Number 22 of 2009 concerning the Road Traffic and Transportation Law. To be precise, Article 106 paragraph (1) explains that: "Every person who drives a motorized vehicle on the road is required to drive sensibly and with full concentration." However, the law does not specifically prohibit smoking while driving, giving rise to unclear norms and causing many drivers to who still violate it by smoking on the highway. In Law Number 22 of 2009 concerning Road Traffic and Transportation, there is no mention of criminal or administrative sanctions for drivers who smoke while driving driving.

Based on these problems, the government issued Minister of Transportation Regulation (Permenhub) Number 12 of 2019 concerning Safety Protection for Motorcycle Users Used for Public Interest. Minister of Transportation Regulation Number 12 of 2019 Article 6 letter c, namely: "Drivers are prohibited from smoking and carrying out other activities that disturb concentration while riding a motorbike." According to Article 106 Paragraph 1, people who violate can be subject to a fine of not more than 3 (three) months in prison or a fine of not more than IDR 750,000. According to Article 106 Paragraph 1 of Law Number 22 of 2009



concerning Road Traffic and Transportation, drivers who smoke while driving can be punished with imprisonment or a fine. According to Article 283 of Law Number 22 of 2009 concerning Road Traffic and Transportation, drivers who smoke while driving can be punished with a fine.

To deal with this problem, the government must make efforts so that the implementation of Minister of Transportation Regulation Number 12 of 2019 regarding smoking while driving can run well and the public can comply with these regulations. Efforts that can be made are to disseminate information to the public regarding Minister of Transportation Regulation Number 12 of 2019 regarding the prohibition of smoking while driving. One form of outreach that can be carried out is by distributing posters, pamphlets or flyers to road users at red lights, bus stops, or parking. Not only is there socialization regarding Minister of Transportation Regulation Number 12 of 2019, but there is also a need for outreach or persuasion about the dangerous impacts of smoking while driving and the introduction of traffic discipline so that every driver is more aware of the safety of themselves and others.

## **2. The Main Obstacle in Efforts to Increase Public Understanding of the Dangers of Smoking While Driving**



Increasing public understanding about the dangers of smoking while driving is a crucial step in efforts to improve traffic safety. However, various obstacles can arise in this process, making it difficult to achieve these goals. The following are some of the main obstacles that are often faced in efforts to increase public understanding about the dangers of smoking while driving:

**Low Awareness:** One of the main obstacles is the low level of public awareness of the dangers of smoking while driving. Many individuals may not be fully aware of the negative impacts of smoking while driving, making it difficult to motivate them to change their behavior.

**Lack of Education and Information:** Lack of access to information and education about the dangers of smoking while driving can be an obstacle. The public needs to be given a clear understanding of the health impacts and safety risks associated with this behavior through effective education campaigns.

**Level of Dependence:** For individuals who are already addicted to cigarettes, changing smoking behavior while driving can be a big challenge. A high level of dependence on nicotine can make it difficult for them to stop smoking, especially when driving.

**Running out of Resources:** Limited resources to organize outreach campaigns and other activities can also be an obstacle. A lack of budget, personnel, or infrastructure needed to convey the message about the dangers of smoking while driving can hinder prevention efforts.



**Compliance Rates:** Although no-smoking-while-driving laws may exist, compliance rates with them are often low. Lack of strict law enforcement and lack of effective sanctions for violators can also lead to low compliance with this policy.

**Literacy and Education Levels:** Low literacy and education levels in some communities can also be an obstacle. Individuals who have a low level of education may not understand the information presented correctly or may not pay attention to information about the dangers of smoking while driving. **Cultural Factors and Social Norms:** Cultural and social norms that view smoking as normal or even considered a symbol of freedom can hinder efforts to change behavior. Changing social norms requires time and sustained efforts to change society's views as a whole.

To overcome these obstacles, a holistic and sustainable approach is needed that involves collaboration between government, educational institutions, community organizations and the private sector. These steps can include focused education campaigns, consistent law enforcement, effective smoking cessation programs, and policy changes that support the creation of a smoke-free environment on the road. Apart from these obstacles, there are several additional factors that can also influence efforts to increase public understanding about the dangers of smoking while driving: **Inappropriate Perceptions:** Some individuals may have inappropriate perceptions about the risks of smoking while driving. They



may believe that smoking while driving is not that dangerous or that they can control the vehicle well even while smoking. This kind of perception can reduce motivation to change behavior.

**Lack of Access to Smoking Cessation Services:** For individuals who wish to stop smoking while driving, lack of access to smoking cessation services can be a barrier. Support services, counseling, and nicotine replacement therapy can help individuals overcome nicotine dependence, but access to such services may be limited in some areas.

**Influence of the Cigarette Industry:** The cigarette industry and cigarette advertising can be an obstacle in efforts to increase public understanding about the dangers of smoking while driving. Aggressive advertising practices and marketing strategies targeting individuals on the road may reinforce positive images about smoking while driving and reduce the effectiveness of prevention efforts.

**Lack of Social Support:** Lack of social support from the surrounding environment can also influence a person's efforts to stop smoking while driving. Individuals may face pressure from friends or family members who smoke, or perhaps a lack of support from their work or social environment in their efforts to quit.

**Difficulty Managing Stress:** For many individuals, smoking while driving may be a way to cope with stress or anxiety. A lack of effective stress management strategies can make it difficult for individuals to



change their smoking habits, even when they are aware of the risks. Overcoming these obstacles requires a comprehensive and coordinated approach involving various parties, including government, health institutions, community organizations and the private sector. Targeted education, easily accessible smoking cessation support services, and stricter regulations on cigarette advertising and marketing can help overcome these obstacles and increase public awareness about the dangers of smoking while driving (Hutabarat, 2020).

## **Conclusion**

In facing the dynamics of the growth of motorized vehicles which is in line with the increasing mobility of society, the issue of smoking while driving has emerged as a main focus which not only involves violations of social ethics, but also poses serious potential for traffic safety. Findings from various studies show that smoking behavior can result in impaired driver focus, and can even be a major factor in causing traffic accidents. The ban on smoking while driving, although identified as a proactive measure to protect the public from these dangers, still faces significant implementation obstacles. Low public awareness and unclear law enforcement are the main obstacles in implementing this rule.



Therefore, the main conclusion that can be drawn is that further efforts are needed which include public education, increased implementation of regulations, and consistent law enforcement to achieve a safer driving environment and optimal traffic safety. Success in overcoming the complex issue of smoking while driving will involve active collaboration between the government, educational institutions and the community in creating positive changes in driving behavior.

A comprehensive process is needed to increase public awareness about the dangers of smoking while driving and ensure that Law Number 22 of 2009 and Minister of Transportation Regulation Number 12 of 2019 are implemented correctly. First, increase education and outreach through extensive campaigns involving social media and mass media as well as disseminating learning materials in selected locations. In addition, firm and clear sanctions as well as increased supervision through regular patrols and the use of technology such as surveillance cameras are needed to strengthen law enforcement.

### **Acknowledgments**

In the future, the government must be able to provide legal certainty to motorists through the Road Traffic and Transportation Law and Minister of Transportation Regulation Number 12 of 2019, as well as other related regulations to avoid legal ambiguity. Additionally, relevant settings.



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