

Legal Impact of Transport Based on-Line Based on Law Number 22 Year 2009 About Traffic Road Traffic In Indonesia

*Darwati

Lecturer of Faculty of Law, Borobudur University Jakarta, Indonesia

Corresponding Author: Darwati

ABSTRACT: Transport based on-line at this time quite a lot, so that public transport fulfill legislation requirements are impaired, causing unrest among the drivers. The State of Indonesia is a State referred to in Article 1 A yat (3) the Constitution of 1945 years 1945 and the country has roles and responsibilities in delivering prosperity and justice to the people of Indonesia as defined in a fourth paragraph of Preamble of the Constitution years 1945. The study used normative juridical and sociological methodology. The theory used is the theory of law state and theory of justice. The problem of highway transportation is authority of Transportation Minister as stipulated in Law No. 22 Year 2009 on Road Traffic and Transport. Transport-based on-line stipulated in Transportation Minister No. PM 26 Year 2017 on the Implementation of Transport People By Public Motor Vehicle No In Route, but the proposed regulation Judicial subsequently overturned by the Indonesian Supreme Court. For a justice of government should arrange, transport four wheels on-line by setting a minimum price, and other requirements including operational licenses equated with conventional transportation. But for two-wheeled vehicles based on-line are not allowed to carry a human, except Gojek is used to buy foods or shopping at the supermarket. In this case it takes the firmness of the government to implement it.

Keywords: Legal Impact, Transport Based On-line

Date of Submission: 28-12-2017

Date of acceptance: 14-01-2018

I. BACKGROUND

Currently, on-line public transportation is the choice of some people to achieve their goals. People feel it's easy to go to their destination. The existence of on-line public transport is causing pros and cons in people's lives. Many cons are present for online-based applications mainly from conventional modes of transportation as well as from the government as policy makers. The phenomenon of online-based applications is actually the answer to the needs of the community will be easy to get transportation, convenient, fast, and cheap.[1] In principle, people who agree to throw all kinds of praise directed to the on-line based transport. On-line based transportation consists of two-wheeled transport, 4-wheel transport, the transport is either a two-wheeled or a 4-wheel (four) don't just bring people from one place to another somewhere else, but they are also used by the community to carry so-called go-box up to buy food (go food) in restaurants and in supermarkets. The existence of on-line based transportation is a beneficiary community, but there are also people who are harmed. People who feel the benefit of their journey feels easier, because the message can be picked up and delivered to aim. Besides the cost / the cost is also cheaper when compared with the conventional taxi or motorcycle taxis that are based on bases. Then people who have cars and motorcycles can look for additional by registering the vehicle on an on-line application. And there are also people who have vehicles asking other people to register the vehicle on the application and who has a vehicle to get the money from the driver who runs the vehicle. Parties who feel aggrieved by the presence of on-line based transport are conventional taxi drivers and their companies, public transport and motorcycle taxis on the basis of their income are much reduced. With reduced revenue a public complaint, they complain that they can't support their families and pay the vehicle deposit fee every day. Impact of the reduction in income, public transport drivers, taxi, the motorcycle, causing problems and commotion among motorcycle taxi driver, public transport-based transport two wheels on-line (GRAB, GOJEK or UBER). The divisions caused casualties in both the public transit rights pi / conventional, as well as on the part of the on-line transport. As reported by the electronic media by the

time the driver gojek minutes can get together r in North Jakarta,as well as in the Bekasi Police for fellow Gojek no problems with parking attendants and other public transportation. with parking attendants and other public transportation. Mass gathering freight carried by the driver on-line resulted in social unrest and fear. Dispute between public transport / conventional transport based on-line, the Government has always suggested a peaceful way to both sides of a dispute and the legal process the crime that happened. The peace efforts desired by the government do not solve the problem as a whole and the root of the problem remains unfinished. Public transport drivers had a series voice their demands to abolish the public transport based on-line with a reason not meet legal requirements on road transport, low costs to the detriment of public transport is trying to meet the requirements of applicable law. But the demands have not been granted by the government, because there are also people who comment, so that public transport also fix itself for better and more professional and use technology sophistication. On March 14, 2016, hundreds of public transport drivers rallied at the City Hall Office of DKI Jakarta. They demand the government to curb public transport based on applications,[2] because it does not meet the requirements law so that it harms public transport. But previously also been done demonstrations in the area of Tangerang and outside Jakarta. Which essentially public transit me ask the government to remove the transport based on-line, because don't pay taxes, there is no route permits and no testing of vehicles, all of these requirements is charged and required right to public transport. Public transport that does not meet one of these requirements is ticketed and there is also the car that is stuck / taken by the officer, so they can't earn a living Public transport complaints and taxi drivers received a positive response by the Government, and required an on-line based transport to clean up to meet the legal requirements similar to public transport so that the demonstrators feel calm and start doing the activity again. Furthermore, on-line based transportation objected to the attitude taken by the Ministry of Relations, then on-line based transport conducted a demonstration and rejected the same legal requirements as conventional transportation. So some of the requirements of the driver granted by the government also provide a loosen back to the on-line based transport For the sake of structuring orderly transformation for a security and justice Taking into account the demonstrations conducted by public transport and taxi, the Minister of Transportation subsequently issued Ministerial Regulation No. 26 of 2017 on the Implementation of Public Transport of People Not In Route. Problems of on-line based transportation with public transport has not been completed , because Ministerial Regulation No. 26 of 2017 is conducted Test Material to the Supreme Court of the Republic of Indonesia by on-line based on- charge drivers for reasons contrary to Article 27 of the 1945 Constitution. Ironically the Supreme Court of the Republic of Indonesia granted the suit of the on-line transport driver and declared p hometown chapter filed a judicial review and not have the law strength as opposed to legislation that is in it, namely Law No. 20 Year 2008 on Micro, Small and Medium Enterprises, and Law No. 22 of 2009 concerning Cross Road Transportation. Until now still a dispute between conventional freight transport based on-line. Obviously this raises legal issues in relation to a decision of the Supreme Court of Indonesia according to the rules law applicable and the pros and cons between public transport with on-line based transport.

II. DISCUSSION

2.1 Public Transport Procedures

Travel community from place to place other places, or the movement of goods from one place to another can't be done by human labor alone. Because of the effect on the travel distance, many and the weight of goods to be moved, so that required transportation. Transportation or transportation is an area of activity that is very important in the life of Indonesian society. 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 large small and islands, waters comprising most of the sea, rivers and lakes that allow transport by land, water and air to reach all parts of Indonesia. [3] In general, transportation plays an important role in two things, namely development economic and non-economic development. Economic goals, such as raising national income, developing national industry and creating and maintaining employment opportunities for the community. True to these economic objectives, there are non-economic goals that are to enhance the integrity of the nation and enhance national defense and security. [4] In Article 1 Sub- Article 3 of Law Number 22 Year 2009 concerning Transportation of Road Transport states that: "Transport is the movement of people and / or goods from one place to another by using vehicle on Road Traffic Space." The movement of people or goods from one place to another using a vehicle, without a human vehicle will not be able to do so in the long run as well many people will not be able to travel far without a vehicle. Vehicles are a means of transport on roads consisting of Motor Vehicles and Non-Motorized Vehicles (Article 1 point 7 of Law Number 22 Year 2009 on Road Transport Traffic). In Article 27 Paragraph (2) of the 1945 Constitution, it is stipulated that every citizen shall have the right to work and a decent living for humanity. Subsequently, the State of Indonesia is a State of law (Article 1 Paragraph (3) of the 1945 Constitution), pursuant to the formulation of Article 1 Paragraph 3, any activities and undertakings to be undertaken by the citizens of the State shall comply with applicable laws and

regulations. Road transport procedures are regulated in Law Number 22 Year 2009 on Road Transportation juncto the Government Regulation Number 74 Year 2014 on Road Transportation juncto the Regulation of Minister of Transportation No. PM.26 Year 2017 on the Implementation of Transport People With Public Motor Vehicles No Dal am Route. All legal requirements regulated in legislation must be obeyed by every citizen and the violation of the laws and regulations is sanctioned by both criminal and civil penalties. In Article 1 Sub-Article 1 of Law Number 22 Year 2009, it is formulated that: "Traffic and Road Transport is a unified system consisting of Traffic, Road Transport, Traffic and Road Transport Network, Traffic Infrastructure and Road Transport, Vehicle, Driver, Road User, and its management" Implementation of traffic and road transport has a strategic role in supporting national development and integration as part of efforts to promote the general welfare as mandated by the 1945 Constitution of the State of the Republic of Indonesia. Traffic and Road Transport as part of the national transportation system should be developed potential and its role to realize security, safety, order, and smoothness of traffic and Road Transport in order to support economic development and regional development. [5] Provision of transport of people there are in the route and there is also not in the route, for those in the route such as buses, and public transportation, for those who are not in the trajectory, such as Tourism cars, taxis and others. However, for order, justice, uniformity and security there is no route or no government route has obligation to give rules to be obeyed by every road transport manager. Violations of applicable rules are subject to criminal or administrative sanctions. The enactment of road transport law, so that people can be orderly and regular in using the vehicle on the highway, both as passengers and for transporters. In the implementation of road transport there are several principles that need to be considered as formulated in Article 2 of Law Number 22 Year 2009 on Road Transport Traffic including: a. transparent principle; b. accountable principles; c. sustainable principles; d. participatory principles; e. beneficial principle; f. efficient and effective principles; g. balanced principle; h. unified principle; and i. principle of independence ". Motor Vehicles are any Vehicles that are driven by mechanical equipment in the form of machines other than Vehicles running on the rails (formulated in Article 1 number 8 of Law Number 22 Year 2009). Further, Non-Motorized Vehicles shall be every Vehicle powered by human and / or animal (as defined in Article 1 point 9 of Law Number 22 Year 2009). General motor vehicles are any vehicles used for the transport of goods and / or persons with a fee (Article 1 number 10 of Law Number 22 Year 2009).

2.2 In Article 3 of Government Regulation No. 74 of 2017 on Road Transportation it is explained that the transport of persons and / or goods may use:

1. Motor vehicle; and
2. Non Motorized Vehicles).
3. For motor vehicles can be grouped in:
4. Motorcycle
5. Passenger car;
6. Bus Car; and
7. Freight cars.

2.3 Public services with public transport can be done on a route and can also be carried out not in the route (provided for in Article 21 of Government Regulation number 74 of 2017 on Road Arrangement). Subsequently Article 23 provides that: "The transportation services of persons with General Motor Vehicles in the Route as referred to in Article 22 must meet the criteria":

1. Has fixed and regular routes;
2. Scheduled, starting, terminating, and increasing or decreasing Passenger in Terminal for Intercity and Cross-border Transport; and
3. Raise and lower Passengers at designated places for urban and rural Transport. The designated place referred to in paragraph (1) letter c may be: a. Terminal; b. stop; and / or c. signs for dismissal of General Vehicle.

2.3 The scope of enactment of road transport law, with the aim of fostering and maintaining safe, safe, orderly, and smooth Road Traffic and Transportation in accordance with Article 4 of Law Number 22 Year 2009 through:

1. moving activities Vehicles, people, and / or goods on the Road;
2. activities that use facilities, infrastructure, and supporting facilities of Traffic and Road Transport; and
3. activities related to the registration and identification of Motor Vehicles and Drivers, traffic education, Traffic Management and Engineering, as well as law enforcement of Traffic and Road Transport. [6]

The guidance is carried out by the State (in accordance with Article 5 of Law Number 22 Year 2009) Guidance by the Government includes: a. planning; b. Settings; c. control; and d. supervision. "In implementing

the guidance as referred to in paragraph (1), the Government may hand over some of its affairs to the provincial and / or district / city governments (Article 6 paragraph (2) of the Road Transport Traffic Act).

Road transport is organized with the objectives (Article 3 of Law Number 22 of 2009), among others:

1. the realization of safe, safe, orderly, smooth, and integrated Road Traffic and Transportation services with other modes of transport to promote the national economy, promote the common good, strengthen the unity and unity of the nation, and be able to uphold the dignity of the nation;
2. the realization of ethics in traffic and culture of the nation; and
3. the realization of law enforcement and legal certainty for the community.

2. Road Transportation Requirements

As stipulated in Article 14 of Government Regulation Number 74 Year 2014, public transport shall be conducted in an effort to meet the needs of safe and convenient and affordable transportation of safe and secure people and / or goods. The Government and / or Regional Government shall be responsible for the operation of public Transport for the transportation of persons and / or goods by General Vehicles. Furthermore, in Article 15 of Government Regulation number 74 of 2014, the Government is obliged to guarantee the availability of public Transport for inter-city inter-provincial and cross-border public transportation services, inter-city transportation of persons and / or goods in the province, public transport for transportation services person and / or goods within the territory. Obligation of Government under Article 16, and Article 17 of Government Regulation No. 74 of 2014, that the government is obliged to ensure the availability of public transport for the transport services. D of Article 18 stipulates that, the obligations of the Regional Government to ensure the availability of public Transport for the services of Transport of persons within the district / city as referred to in Article 15 paragraph (3) shall include:

1. Determination of the General Plan of Route Network and the need of General Vehicle for Inner Traffic Transportation;
2. Provision of public transport facilities and facilities; c. Implementation of licensing of Public transport;
3. Provision of Public Vehicles;
4. Supervision on the implementation of minimum service standards of transportation of people who have been established;
5. Creation of fair competition in the service industry Public transport; and
6. Development of human resources in public transportation. District / city.

The details of road transport requirements are regulated in Government Regulation No. 74/2 2014 on Road Transport and Ministry of Transportation Regulations. In the original of Government Regulation first state that requirement that must be fulfilled by any person who will carry out public transport must be Indonesian legal entity in accordance with the provisions of the law. Indonesian legal entities as referred to in paragraph (1) shall be in the form of:

1. State-owned enterprises;
2. Regional owned enterprises;
3. Limited liability company; or
4. Cooperative.

The legal requirements of a business entity are regulated in Law Number 40 Year 2007 regarding Limited Liability Company and Cooperative Act. The business entity is a Public Transport Company that is a legal entity providing public transportation services of persons and / or goods with a General Vehicle (Article 1 point 13 of Government Regulation Number 74 Year 2014) . Furthermore, the transportation entrepreneur concerned shall take care of the licensing to carry out the Transport of persons and / or goods. Requirements that must be owned in accordance with Article 78 of Government Regulation Number 74 Year 2014, among others:

1. Permit for the implementation of In-Tray Transport;
2. License for transportation of persons not in Trajectory; and / or
3. License to operate Special goods transport.

Pursuant to Article 78 it is clearly mentioned route permits filed by the applicant, whether to organize transport of the route, or transport of people not in the trajectory or will organize transportation of goods. Permit as referred to in Article 78 paragraph (1) in the form of contract documents and / or electronic cards consisting of :[7]

- a. Su decision on the license to carry out the Transport;
- b. A statement of ability to fulfill the obligation to serve the Transport in accordance with the permit granted; and

c. Card supervision.

The decree of the license to operate the Transportation and the statement of ability to fulfill the obligation to serve the Transportation pursuant to the permit as meant in paragraph (1) letter a and letter b shall be given to the leadership of Public Transport Company and is valid for 5 (five) years. Furthermore, the Supervision Card as referred to in paragraph (1) letter c shall be part of the licensing document attached to each General Vehicle and shall be renewed annually since the issuance of the supervisory card. Any license granted by the Government subject to the licensing fees in accordance with the provisions of laws - laws that apply (under Article 81 paragraph (2) and (3) of Government Regulation No. 74 Year 2014). Public service with public transport can be done in the route and can also be done with not in route (stipulated in Article 21 of Government Regulation No. 74 Year 2017 on Road transport). Subsequently Article 23 provides that: "The transportation services of persons with General Motor Vehicles in the Route as referred to in Article 22 must meet the criteria":

- a. Has a fixed and regular route;
- b. Scheduled, starting, ending, and raising or dropping passengers at terminals for intercity and cross-border transport; and
- c. Increase and decrease passengers at designated places for urban and rural transport. T four determined as referred to in paragraph (1) letter c may be: a. Terminal; b. Stop; and / or c. Signs to stop public motor vehicles.

The scope of enactment of road transport law, with the aim of fostering and maintaining safe, safe, orderly, and smooth Road Traffic and Transportation in accordance with Article 4 of Law Number 22 Year 2009 through:

- a. Moving activities Vehicles, people, and / or goods on the Road;
- b. Activities that use facilities, infrastructure, and supporting facilities of Traffic and Road Transport; and
- c. Activities related to the registration and identification of Motor Vehicles and Drivers, traffic education, Management and Traffic Engineering, as well as law enforcement Traffic and Road Transport. [8]

The guidance is carried out by the State (Article 5 of Law Number 22 Year 2009) Guidance by the Government includes: a. planning; b. Settings; c. control; and d. supervision". In carrying out the guidance as referred to in paragraph (1), the Government may submit a portion of its affairs to the provincial and / or district / city governments (Article 6 paragraph (2) of the Road Transport Traffic Act).

III. PUBLIC TRANSPORT TARIFF / FEE.

The government together with the ORGANDA (Organisasi Gabungan Angkutan Darat) or joint organization for ground transport (determines the amount of public transportation tariff, whether the transportation in the route or the transportation is not in the route, because the public transport entrepreneurs and the driver can't decide the dance f. The Government determines the tariff of public transportation for justice, in order to avoid unhealthy competition and to protect drivers and public users of public transport. Each happens to increase the price of fuel oil, when it also happens changes to general transport tariff either far or near, the transportation in the trajectory and the transport is not in the trajectory. Such tariff adjustment is required for the benefit of the public and public transport operators. Article 1 number 16 of Government Regulation Number 74 of 2014 formulates that; "Subsidies are operational cost assistance for Public Passenger Transports with economy class rates on certain types of financially unfavorable routes, including pioneering aerial routes".

IV. PUBLIC TRANSPORT ISN'T IN THE ROUTE

As regulated in Article 80 paragraph (1) of Government Regulation Number 74 Year 2014, Public Transport Company must fulfill the permit requirements as referred to in Article 78 paragraph (1). Further provisions on the requirements for the operation permit for the transportation of persons and / or goods as meant in paragraph (1) shall be regulated by Ministerial Regulation Transport o rang with a general motor vehicle not in route is transport which is served by public transportation or car public buses in urban areas and / or certain areas or from one place to another, has its origin and destination but whose trajectory and time remain (Article 1 point 3 Regulation Prime Minister of Transportation No. 26 Year 2017 on the Implementation of Transport People By Public Motor Vehicle No In Route). Route is a General Motor Vehicle trajectory for the services of the transport of persons with passenger cars or bus cars having fixed origin and destination, fixed trajectory, and types of fixed and scheduled or non-scheduled vehicles.

V. LEGAL SANCTIONS

Violation of road transport legislation rules, sanctioned both administratively and fines for violation of the provisions of Article 53 paragraph (1), Article 54 paragraph (2) or paragraph (3), or Article 60 paragraph (3) of Law Number 22 of 2009 on Road Transport Traffic, subject to administrative sanctions in the form of: a. written warning; b. payment of fines; c. license suspension; and / or d. revocation of permission. Public transportation entrepreneurs are also given sanctions as formulated in Article 121 of Government Regulation Number 74 of 2014 concerning Road Transport, violations of Article 56 paragraph (1), Article 57, Article 58, Article 78 paragraph (1), Article 83, Article 86 paragraph 2), Article 88 paragraph (4), Article 90 paragraph (1), and Article 91 paragraph (1) shall be subject to administrative sanctions. The administrative sanctions as referred to in paragraph (1) shall be in the form of: a. written warning; b. administrative fines; c. license suspension; and / or d. revocation of permission.

5.1 The Decision of the Supreme Court of the Republic of Indonesia concerning the Implementation of the Transport of Persons with Motor Vehicles isn't in the Route

Transport drivers based on-line file a judicial review to the Supreme Court against the Minister of Transportation regulations PM.26 Number Year 2017 on the Implementation of Transport People's with Commercial Motor Vehicle No In Route. Drivers who filed objections include: SUTARNO, ENDRU VALIANTO NUGROHO, LIE HERMAN SUSANTO, IWANTO, IR. JOHANES BAYU SARWO AJI and ANTONIUS HANDOYO. The driver filed an objection to the Supreme Court against Article 5 paragraph (1) letter e, Article 19 paragraph (2) letter f and paragraph (3) letter e, Article 20, Article 21, Article 27 letter a, Article 30 letter b, Article 35 paragraph (9) letter a number 2 and paragraph (10) letter a number 3, Article 36 paragraph (4) letter c, Article 37 paragraph (4) letter c, Article 38 paragraph (9) letter a number 2 and paragraph (10) letter a number 3, Article 43 paragraph (3) letter b number 1 sub-item b, Article 44 paragraph (10) letter a number 2 and paragraph (11) letter a number 2, Article 51 paragraph (3), and Article 66 Paragraph (4) of Regulation of the Minister of Transportation of the Republic of Indonesia No. PM.26 of 2017 on the Implementation of Transport of Persons with Public Transport Vehicles is not in the Route. Furthermore, the Supreme Court of the Republic of Indonesia through Decision Number 37 P / HUM / 2017 granted the Petitioners' Petition Sutarno et al with the Decision as follows:

VI. JUDGE

1. Accept the petition for judicial review of the Petitioners: 1. SUTARNO, 2. ENDRU VALIANTO NUGROHO, 3. LIE HERMAN SUSANTO, 4. IWANTO, 5. IR. JOHANES BAYU SARWO AJI, 6. ANTONIUS HANDOYO;
2. To declare that Article 5 paragraph (1) letter e, Article 19 paragraph (2) letter f and paragraph (3) letter e, Article 20, Article 21, Article 27 letter a, Article 30 letter b, Article 35 paragraph (9) (3), Article 36 paragraph (4) sub-paragraph c, Article 38 paragraph (9) letter a number 2 and paragraph (10) letter a number 3, Article 43 paragraph (3) letter b number 1 subparagraph b, Article 44 paragraph (10) letter a number 2 and paragraph (11) letter a number 2, Article 51 paragraph (3), and Article 66 paragraph (4) Ministerial Regulation Transportation of the Republic of Indonesia No. PM.26 of 2017 on the Implementation of Transport of People with Public Motor Vehicles not in the Trajectory, contrary to the higher laws and regulations, namely:
 2. Law Number 20 Year 2008 regarding Micro, Small and Medium Enterprises;
 3. Law Number 22 Year 2009 on Road Traffic and Transportation;
4. To declare that Article 5 paragraph (1) letter e, Article 19 paragraph (2) letter f and paragraph (3) letter e, Article 20, Article 21, Article 27 letter a, Article 30 letter b, Article 35 paragraph (9) (3), Article 36 paragraph (4) sub-paragraph c, Article 38 paragraph (9) letter a number 2 and paragraph (10) letter a number 3, Article 43 paragraph (3) letter b number 1 subparagraph b, Article 44 paragraph (10) letter a number 2 and paragraph (11) letter a number 2, Article 51 paragraph (3), and Article 66 paragraph (4) Ministerial Regulation Transportation of the Republic of Indonesia No. PM.26 of 2017 on the Implementation of Transport of Persons with Public Vehicles not in Route , has no binding legal force;
5. Ordered to the Minister of Transport of the Republic of Indonesia to revoke Article 5 paragraph (1) letter e, Article 19 paragraph (2) letter f and paragraph (3) letter e, Article 20, Article 21, Article 27 letter a, Article 30 letter b, Article 35 paragraph (9) letter a number 2 and paragraph (10) letter a number 3, Article 36 paragraph (4) letter c, Article 37 paragraph (4) letter c, Article 38 paragraph (9) letter a number 2 and paragraph 10) letter a number 3, Article 43 paragraph (3) letter b number 1 sub-item b, Article 44 paragraph (10) letter a number 2 and paragraph (11) letter a number 2, Article 51 paragraph (3), and Article 66 paragraph (4) Regulation of the Minister of Transportation of the Republic of Indonesia No. PM.26 of 2017 on the Implementation of Transport of Persons with Public Vehicles is not in the Trajectory;
6. Instructs the Registrar of the Supreme Court to transmit these decisions to the State Printers for inclusion in the State Gazette;

7. Punishing the Respondent to pay a court fee of Rp 1,000,000.00 (one million Rupiah);D declared in the Supreme Court deliberation meeting on Tuesday, June 20, 2017 by Dr. H. Supandi, SH, M.Hum., The Supreme Administrator of the Supreme Administrative Court of the State Administrative Court determined by the Chief Justice of the Supreme Court as Chairman of the Assembly, Is Sudaryono, SH, MH and Dr. HM HaryDjatmiko, SH, MS, Judges of the Supreme as Members of the Assembly, and is pronounced in the hearing open to the public on the same day by the Chief Judge and Member Judges. [9]

4.1 P Ro And Counter Between Public Transport With On-Line Based Transport

On-line based transport isn't legal, has no business license, no route permits, and no emission test, all of these requirements are charged and take time to process them, on-line based freight charges unilaterally. While public transport meets all these requirements, the only neglected general transport get legal sanction, and lease transport determined by the Government and ORGANDA. Based on these descriptions freight based on-line does not implement the requirements of the business license as stipulated in the legislation in force, the opposite of public transport must meet the requirements of law and a violation of one loaded only get penalized, and the rental fee is determined by the central government / province and ORGANDA.

4.2 Analysis by Writer

Based on the results of the study author proliferation of transport based on-line as allowed by the Government. The transport favored by the public because it's good for 2-wheel and four wheels, the impact of public transport passengers quiet so that the opinion 's public transport decreases and money deposit is not met. These conditions make the dispute between freight-based on-line with public transport. Vehicle-based on-line cost less than public transport, for transport on-line is not incorporated law, no License, no route permits and not doing KIR every six months. All the terms are arranged in Law Number 22 Year 2009 regarding Traffic and Transport Road juncto Government Regulation of Number 74 Year 2014 on Road Transport and Transportation Minister Regulation No. 26 Year 2007 on the Implementation of Transport People By Public Motor Vehicle No In Route. All requirements shall be met by public transport, breach those rules get administrative sanctions to civil and fines, then in the examination in field get penalized driver ticketed or car it drawn to fool by officers. Differences of opinion-based on-line transport with public transport into the response by the people who expressed public transport should clean themselves with technology progress, then society also states-based on-line vehicle more comfortable. The opinion that society is law can't be justified, because every person has the right to try and develop themselves, but they should not forget the State of Indonesia is a State of Law (Article 1 (3) of the Act of 1945, everything will be done shall be guided by the legislation in force. Public opinion states-based on-line vehicle is more convenient than public transport is not a guarantee, because transportation on-line personal property that is difficult held responsible in case of problems. The author never ride shuttles based on-line from Youth to New Hope Park, vehicle by writers feel uncomfortable because the driver is not looking ahead but often look back at the writer sitting position. Further cost Rp79.000, - handed over the money 100,000, - the driver does not want to restore the author expressly requested returns 20,000, -. During the taxi ride conventional writers they do not want that way. Research the author did in general on-line transport driver it have a job and for additional proceeds vehicle owners to register the vehicle to be operated outside of working hours. And there are also people who have a personal vehicle to have someone else to operate the vehicle and the result is divided by 2 with a deposit system applicable general vehicle.

Author ever discussed the issue of public transport with one of the officials, the official actually tells buying a car by way of installments, then operated on-line by paying others. Within 3 years he has paid off the mortgage of his car. If the note is based on-line freight is making the rich become richer and the poor still do not have, the author argues in law that cutaneous based on-line if left government has been unfair to the public. If people choose cheap including the writer is not wrong, but the differences are very much the requirements of public transport and transport-based on-line shall be eliminated for the sake of justice. Because the fair b aru can be felt when all the rules hu kum apply to all citizens of Indonesia. Decision of the Supreme Court is very wrong, because the freight-based on-line could not be included ked nature category of micro, small and downloading because not satisfy the requirements of Article 6 of Law No. 20 of 2008 on Small and Medium Enterprises. Furthermore, the Supreme Court argued that the Ministerial Regulation No. 26 in violation of Article 183 of Law Nomo R22 Year 2009 is also not true reason, it is in violation of Article 183 is based on-line transport, because prices are set himself. While formulation of Article 183 is the price set by the company with the approval of the government, for public transport prices are set by the Government together with ORGANDA. Actions taken by the on-line transport drivers clear violation of Law No. 22 Year 2009 regarding Traffic Transportation juncto Government Regulation of Number 74 Year 2014 on Road Transportation. In Government Regulation is explained that the public transport in the route should be incorporated law Indonesia, has License, as well as vehicle emissions testing every six (6) months.

Consideration law Supreme Court decision declared the Minister Regulation of Number of 26 Year 2017 incompatible with Article 183 of Law No. 28 Year 2008 on Micro, Small & Medium Enterprises is not true.

V. CONCLUSION

1. Transport based on line are not included in the criteria of micro, medium and small as where regulated in Law Number 28 of Year 2008 on Micro, Small & Medium Enterprises as:
2. Transport based on line not producing the goods referred to d nature of Article 3 of Law - Law Number 28 Year 2008 on Micro, Small & Medium Enterprises, namely micro, medium and small aims clicking eloped efforts in rang k a a national economy .
3. Transport based on line are not included in criterion as man A referred to in Article 6 of Law No. 28 of 2008 on Micro, Small & Medium Enterprises as m o dal owned transport on line at the top of Rp 100,000,000, - (one hundred million) for transport-based on-line has the most inexpensive car AYLA costs around Rp.130.000.000, - (one hundred thirty million rupiah) whereas micro and medium enterprises of capital at most Rp 50.000.000, - (five million)while criterion small businesses and men puff at most Rp 50.000.000, - (five million).
4. Transport based on line does not require land and buildings as a place of business within the meaning of Article 6 paragraph (1) a and b of Law Number 28 Year 2008 on Micro, Small and Medium Enterprises
5. Decision of the Supreme Court , in violation of Law No. 22 Year 2009 regarding Traffic and Road Transportation Act No. 28 of 2008 as freight on-line does not have :
6. Operating License as defined in Article 86
7. Vehicle emissions testing every six (6) months
8. Tariff on transportation based on line no permission from service users and enterprises,
9. The procedure of public transport, among others:
10. Should be incorporated law Indonesia in accordance with Law No. 40 of 2007 on Limited Liability Company (as set out in Article 78 Government Regulation of Number 74 Year 2014 on Road Transport)
11. If a role as a cooperative must have a body law cooperative pursuant to Law No. 12 of 1992 correspond Government Regulation No. 74 of 2014 on road transport
12. License and must have a permit.

REFERENCES

- [1]. Januar Alamijaya, <http://kaltim.tribunnews.com/2017/07/09/pro-kontra-transportasi-online> , accessed December 31, 2017.
- [2]. Yantina Deborah, <https://tirto.id/bentrok-transportasi-konvensional-dan-online-clvq> , accessed December 31, 2017.
- [3]. Abdulkadir Muhammad, Law of Commercial Transportation, Citra AdityaBakti, Bandung, 1998, p. 7.
- [4]. Abbas Salim, Transportation Management, RajaGrafindo, Jakarta, 2006, p. 2.
- [5]. Considering letter b of Law Number 22 Year 2009 regarding Traffic Transportation
- [6]. Article 4 of Law No. 22 of 2009 on Road Traffic and Transport.
- [7]. Article 81 of Government Regulation No. 74 Year 2014 on Road Transportation.
- [8]. Article 4 of Law No. 22 of 2009 on Road Traffic and Transport.
- [9]. The Supreme Court Decision Number 37 P / HUM / 2017 dated June 20, 2017.

*Darwati."Legal Impact of Transport Based on-Line Based on Law Number 22 Year 2009 About Traffic Road Traffic In Indonesia." American Journal of Engineering Research (AJER), vol. 7, no. 11, 2018, pp. 136-143.