

**LEGAL PROTECTION FOR LOSS OF MOTORBIKES IN THE PARKING LOT  
OF THE TOURISM CENTER OF CIREBON REGENCY BASED ON  
REGIONAL REGULATION NO.11 OF 2019 CONCERNING THE  
IMPLEMENTATION OF PARKING  
(Case study in Bukit Cinta – Mundu, Cirebon Regency).**



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**Abstract.** Chapter 18, paragraph (1) of the Consumer Protection Law is included and regulated regarding the provisions for the Inclusion of Standard Clauses, where "Business actors in offering goods and or services intended for trading are prohibited from making or incorporating standard clauses on every document and or agreement when stating the transfer of responsibility of business actors", Chapter 18 paragraph (2) of the Consumer Protection Law states that "Business actors are prohibited from including standard clauses whose disclosure is difficult to understand". Chapter 32 of Cirebon Regency Regional Regulation No. 11 of 2019 which states that "Getting a sense of security for the use of Parking Space Units (SRP)". This type of research is Normative Law, which analyzes laws, regulations, and other legal materials. The problem in this study is how to provide legal protection for consumers who lose their motorbikes in the parking lot of the Bukit Cinta Tourism Center, Cirebon Regency and how to resolve disputes in the event of losses on the part of consumers who are parked in the parking lot of the Bukit Cinta Tourism Center, Cirebon Regency. Legal protection for consumers in the parking of motor vehicle tourism objects in Cirebon does not yet exist because of the standard clause on ticket parking related to the transfer of responsibility for the parking manager. This is clearly contrary to Chapter 18, paragraph (1) of the Consumer Protection Law. Including a standard clause with the transfer of responsibility has violated the freedom of contract in the Civil Code. Efforts to resolve disputes if there is a loss to the owner of the vehicle parked at the tourist attraction, then to divide or transfer the burden of responsibility, the parking manager can collaborate with the insurance company to provide parking insurance for each consumer. To protect consumers legally, several options of legal remedies can be pursued by litigation or non-litigation, such as mediation, mediation at the Directorate of Consumer Protection, the Dispute Resolution Agency (BPSK), and the District Court.

**Keywords:** Consumer Protection Law, Standard Clauses, Legal Protection

## **A.Introduction**

Almost every day, everyone uses means of transportation, whether for work, school, transporting food, crops or livestock, shopping, or just traveling; all of these activities require transportation. Transportation has become an inseparable part of life. It can be said that transportation is the lifeblood of a country's economic development.

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The increasing number of motorized vehicles, especially two-wheelers, has become a common phenomenon in developing countries such as the Republic of Indonesia; behind this phenomenon, there is also homework for the Central Government, which is especially handed over to the Ministry of Transportation. The Ministry of Transportation is obliged to prepare parking lots regulate the order administratively, and implement it in the field. The Ministry of Transportation is obliged to make a law and regulation where the rule can prioritize the level of safety for parking lot users.

The existence of parking lots is beneficial for the community, especially for those who own vehicles. However, in practice, the implementation of parking services always uses a standard clause that weakens one party. This abuse can occur if an agreement is born due to the superiority of one of the parties, either economic superiority, psychological superiority or other advantages, in Law No. 8 of 1999 concerning Consumer Protection is clearly stated and regulated regarding the Provisions for the Inclusion of Standard Clauses, where "Business actors in offering goods and or services intended for trading are prohibited from making or including standard clauses on every document and/or agreement if it states the transfer of responsibility of business actors".<sup>3</sup>

Even though it has been expressly declared null and void by law and the parking manager must adjust the standard clause that is contrary to this law, the parking manager still includes the clause and does not make adjustments. The objectives of this study are: 1. To find out about the protection of consumers who lose their motorbikes in the parking lot of the Bukit Cinta Tourism Center, Cirebon Regency, 2. To find out the legal remedy in Dispute Resolution in the event of Losses to Consumers parked in the parking lot of the Bukit Cinta Tourism Center, Cirebon Regency,

## **B. Research Methods**

The approach method used is Normative Juridical. The approach method used is juridical-empirical, namely approaching a problem based on applicable regulations and emphasizing facts in the field, This type of research is qualitative, namely by describing all the results of the study of data related to the problems studied, The types of data used are primary data and secondary data.

## **C. Discussion**

### **Legal Protection for Consumers Who Lost Motorbikes in the Parking Lot of the Bukit Cinta Tourism Center, Cirebon Regency, based on Regional Regulation Number 11 of 2019 concerning the implementation of parking**

It is undisputable that there are often cases of losing motorbikes or helmets in the parking lot, and we even receive the parking ticket. Very clearly listed in the parking lot is the inscription "All forms of loss and damage are not the responsibility of the manager." This means that the loss that occurs to our motorcycle, whether we lose the motorbike or the parked helmet, is not the responsibility of the parking manager.

<sup>3</sup> Law No. 8 of 1999 concerning Consumer Protection

In the regulation contained in Chapter 18 of Law No. 8 of 1999 paragraph (2) states that: "Business actors are prohibited from including standard clauses whose location or form is difficult to see or cannot be read clearly, or whose disclosure is difficult to understand".

While in paragraph (3) it is further stated that: "Every standard clause that business actors have stipulated in documents or agreements that meet the provisions as referred to in paragraphs (1) and (2) is declared null and void "protection for parking consumers there are several legal options that can be taken, including based on the consumer protection law Chapter 18 regarding the responsibility of business actors. And the provisions in the Civil Code are also applied, namely based on Chapter 1694 of the Civil Code which states that "custody occurs when a person receives an item from another person, on the condition that he will keep it and return it in its original form.

Chapter 45 paragraph 1 jo. Chapter 46 Every consumer who is harmed by the safety of his body, his life, or his property by a product he uses, may file a lawsuit against the business actor concerned through the general court or through the Consumer Dispute Settlement Agency.

Cirebon Regent Regulation Chapter 33 No. 1 of 2021 concerning the implementation of Public Parking Lot Management Cooperation, Rights and Obligations of Managers, Officers and Users of Public Parking Services clearly explains that public parking service users have the following rights:

1. Obtain proof of payment of parking levy
2. Getting Good Service from Public Parking Attendants
3. Get security protection and
4. Get compensation for the loss and/or damage experienced according to the applicable agreement.

### **Legal Remedies in Resolving Disputes in the Event of Losses to Consumers Parked in the parking lot of the Bukit Cinta Tourism Center, Cirebon Regency**

Parking attendants (parking managers) are generally not responsible for the loss of vehicles because they refer to the basis of the content of the standard clause on the vehicle retribution ticket which contains "All damage & loss of goods is not the responsibility of the manager" This is due to the lack of knowledge of the parking manager.

Cirebon Regency Regulation No. 11 of 2019 concerning the Implementation of Parking which discusses cases of vehicle loss due to negligence of parking managers The parking manager/parking attendant has so far only been responsible for helping to find lost vehicles and assisting in providing information to the police. Parking service consumers (users) said that the responsibility of parking managers in the event of a loss of a motor vehicle is only limited to that.

In an effort to protect parking consumers, there are several legal remedies that can be taken, including based on the consumer protection law, Chapter 19 regarding the responsibilities of business actors. And the provisions in the Civil Code are also applied, namely based on Chapter 1694 of the Civil Code which states that "custody occurs when a person receives an item from another person, on the condition that he will keep it and return it in its original form.

Then in Chapter 45 of Law number 8 of 1999 it is formulated that efforts to resolve consumer disputes can be carried out through:<sup>4</sup>

1. Every aggrieved consumer can sue business actors through institutions tasked with resolving disputes between consumers and business actors or through courts in the general court environment.
2. Consumer dispute resolution can be pursued through the courts or out of court based on the voluntary choice of the parties to the dispute.
3. If an out-of-court consumer dispute resolution effort has been chosen, a lawsuit through the court can only be pursued if the effort is declared unsuccessful by one of the parties or parties concerned.

Chapter 45 paragraph 1 jo. Chapter 46 Every consumer who is harmed by the safety of his body, his life, or his property by a product he uses, may file a lawsuit against the business actor concerned through the general court or the Consumer Dispute Settlement agency

To divide or transfer the burden of responsibility, parking managers can cooperate with insurance companies to provide parking insurance for each of their consumers. Ideally, the insurance should be able to be given in full for the loss experienced by the consumer.

The Cirebon Government itself has regulated it in Regional Regulation Chapter 32 Number 11 of 2019 concerning the Implementation of Parking which reads as follows:

Parking Operators outside Rumija (Street Owned Space) have the right to:

1. Getting Parking Units
2. Obtain a parking ticket or parking card for the use of the Parking Space Unit
3. Get a sense of security in the use of the Parking Space Unit
4. Get the correct parking service information and
5. Obtain reimbursement from insurance under the applicable claim from the use of the Parking Space Unit

In the Cirebon Regency Regional Regulation Chapter 32 Number. 11 of 2019 that obtains compensation or guarantee for the loss of vehicles, security and order is with the existence of an insurance guarantee carried out by the parking manager with the insurance company in collaboration with the parking rate determined by the private party but still based on permission from the mayor in accordance with the regulations that have been set. The loss guarantee from the motor vehicle is listed on the ticket as a levy given to consumers who park specifically in the area to be paid. In addition to Cirebon Regency Regional Regulation No. 11 of 2019, there is also Cirebon Regent Regulation Chapter 33 No. 1 of 2021 concerning the implementation of Public Parking Lot Management Cooperation, Rights and Obligations of Managers, Officers and Users of Public Parking Lot Services It is clear that public parking service users have the following rights:

1. Obtain proof of payment of parking levy
2. Getting Good Service from Public Parking Attendants
3. Get security protection and
4. Get compensation for the loss and/or damage experienced according to the applicable agreement.

<sup>4</sup> AZ Nasution, *Consumer Protection Law*, Jakarta, published in media 2014, pp. 230-232.

The existence of parking insurance in Indonesia is felt to be very urgent considering the many consumer complaints regarding parking such as damage and loss in the parking area. Parking insurance is the responsibility of the parking manager as a risk transfer for the occurrence of a loss or loss in the parking lot.

This can be seen in the provisions of Chapter 18 of Law No. 8 of 1999 concerning Consumer Protection, in the Chapter it is clearly stated that there are rules that regulate the existence of standard clauses, namely:

1. Declare the transfer of responsibility of business actors
2. states that business actors have the right to refuse the return of goods purchased by consumers
3. states that business actors have the right to refuse to return the money paid for goods and/or services purchased by consumers
4. states the granting of power of attorney from consumers to business actors, either directly or indirectly, to carry out all unilateral actions related to goods purchased by consumers in installments
5. regulates the proof of loss of usefulness of goods or the use of services purchased by consumers
6. giving business actors the right to reduce the benefits of services or reduce the wealth of consumers who are the object of buying and selling services
7. states the consumer's submission to regulations in the form of new, additional, advanced and/or further changes made unilaterally by business actors during the period when consumers use the services they buy
8. states that the consumer authorizes the business actor to impose the right of dependency, lien, or guarantee rights on goods purchased by the consumer in installments. In addition, in the regulation contained in Chapter 18 of Law No. 8 of 1999 paragraph (2) it is stated that: "Business actors are prohibited from including standard clauses whose location or shape is difficult to see or cannot be read clearly, or whose disclosure is difficult to understand". Meanwhile, in paragraph (3) it is further stated that: "Every standard clause that has been stipulated by a business actor in a document or agreement that meets the provisions as referred to in paragraph (1) and paragraph (2) is declared null and void". In the application of the provisions in paragraph (3), the use of standard calusula which is located as regulated in paragraphs (1) and (2), is still widely found. It does not stop there, in paragraph (3) that, "Business actors are obliged to adjust standard clauses that are contrary to this law".

Business actors compensate for damage, pollution, and consumer losses due to consuming goods and services produced or traded.

1. Compensation, as intended in paragraph (1), may be in the form of a refund or replacement of goods and services of the same or equivalent value or health care and provision of compensation by the provisions of applicable laws and regulations.
2. Compensation shall be provided within a grace period of 7 (seven) days after the date of the transaction.
3. The provision of compensation as referred to in paragraphs (1) and (2) does not eliminate the possibility of criminal prosecution based on further evidence regarding the existence of



elements of wrongdoing.

4. The provisions, as intended in paragraphs (1) and (2), do not apply if the business actor can prove that the error is the fault of the consumer.

A standard clause that violates Chapter 18 paragraphs (1) and (2) can be declared null and void because the act does not adhere to the principle of propriety by shifting responsibility, twisting the situation, fraud, regulating something lacking/unclear, and there is an element of coercion and abuse of the problem.

The Law states that business actors, in this case, parking managers, are responsible for compensating parking service consumers who suffer losses due to the loss of vehicles in the parking lot. In practice, in the field, parking managers only help find and report to the police. It is apparent in the Cirebon Regency Regulation No. 11 of 2019 that parking managers are obliged to replace/provide compensation insurance to parking service consumers who suffer losses due to the loss of vehicles in the parking lot.

The parking manager's task is to maintain the safety of consumer vehicles parked in the parking area. He manages and returns the vehicles to consumers in their original state. In addition, the parking manager's function is to create order and security in the parking lot.

Therefore, consumers pay parking levies not to rent parking spaces but to obtain vehicle security. However, so far, many parking managers have refused to take responsibility if vehicles and consumer goods are lost in the parking area they manage because they argue that parking is a land lease agreement, and they only rent land for parking. In addition, parking managers always take refuge in the standard clause of transfer of responsibility on parking tickets.

Many parking managers let go of their hands when there is loss or damage to goods entrusted or handed over by consumers. Still, if consumers want compensation, the parking managers do not want to replace them because they are sheltering under the standard clause that they make. Many consumers are harmed by this standard clause, by assuming that all forms of loss of goods or objects are negligence from consumers. Even though everything is the responsibility of the parking manager.

The number of consumers who do not know how to claim compensation for losing goods or objects against parking managers makes them always lose in suing for their rights. The existence of illegal parking managers is very detrimental to the consumers; they only want to take material benefits from consumers and release their responsibility as a service provider. usually, the service manager is fully responsible for the services that have been exchanged for money given by the consumer to the illegal parking manager. Therefore, he should be fully responsible for the goods or objects under his supervision.

#### **D. Conclusion**

Legal Protection for consumers in the parking of motor vehicle tourism objects in Cirebon there is no legal protection because there is a standard clause on parking tickets that concerns the transfer of responsibility of parking managers, this is clearly contrary to Chapter 18 paragraph (1) letter a of the Consumer Protection Law which states that "business actors in offering goods and/or services that are shown to be traded are prohibited from making or including standard clauses on the every document and/or agreement", Chapter 32 of Cirebon Regency Regional Regulation No. 11 of 2019 which states that "get a sense of security for the use of the Parking Space Unit (SRP), obtain reimbursement from insurance in accordance with

the applicable claims from the use of the Parking Space Unit (SRP)" and Chapter 33 of Cirebon Regent Regulation No. 1 of 2021 which states that "Get security protection and get compensation for the loss and/or damage experienced according to the applicable agreement". Including a standard clause with the transfer of responsibility has violated the Principle of Freedom of Contract in the Civil Code. Chapter 18 paragraph (3) has expressly stated that every standard clause stipulated by a business actor in a document or agreement is declared null and void.

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Regent Regulation Number 1 of 2021 concerning the Implementation of Cooperation in the Management of Public Parking Lots