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Article Title

Examination of the Sentencing Framework and the Application of Concurrent Offences to Fuel Oil Counterfeiting in Downstream Business Activities

Author(s)

Inge Yuliana Liman*
Universitas Surabaya, Indonesia || ingeyl27701@gmail.com
**Corresponding Author*

Hwian Christianto
Universitas Surabaya, Indonesia || hw_christianto@staff.ubaya.ac.id

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ABSTRACT

Fuel oil counterfeiting in downstream petroleum and natural gas business activities constitutes an economic criminal offense involving several criminal acts. Such conduct disrupts the order of fuel oil trade, harms consumers, and reduces the effectiveness of state supervision over energy distribution. This study examines the sentencing framework for fuel oil counterfeiting and assesses the implications of criminal penalty adjustment policy for the effectiveness of sentencing within the national petroleum and natural gas legal regime. This study is normative juridical research employing a statutory and conceptual approach, with qualitative and prescriptive analyses. The findings show that Article 54 of Law Number 22 of 2001, whose criminal provision has been amended by Law Number 1 of 2026, remains the principal basis for sentencing in cases of fuel oil counterfeiting. The application of concurrent offenses must be constructed based on the conformity of criminal elements, legal subjects, and the facts of the case. The penalty adjustment creates a juridical problem because it changes the nature of the sanction from cumulative to alternative-cumulative and reduces the criminal fine to category V. This change may reduce the effectiveness of criminal fines, particularly against Business Entities or Permanent Establishments. This study recommends optimizing prosecutorial demands within the construction of concurrent offenses and enacting explicit sector-specific criminal provisions so that the maximum criminal fine remains proportionate to culpability, consequences, and the benefit obtained from the criminal offense.

Keywords: *Concurrent Offences; Criminal Fine Classification; Criminal Penalty Adjustment; Downstream Business Activities; Fuel Oil Counterfeiting.*

INTRODUCTION

Fuel oil is a strategic commodity that supports public mobility, production activities, the distribution of goods, and national economic stability. Disruptions to the availability, price, and quality of fuel oil affect not only business actors but also the purchasing power of society in meeting basic needs. Changes in price and supply disruptions may increase the cost burden of meeting public needs, particularly for groups that rely on transportation as a primary means of daily economic activity (Dewi et al., 2022). Therefore, legislation governing fuel oil distribution must be understood as the basis for controlling trade order, protecting consumers, maintaining fiscal stability, and strengthening national economic resilience (Sa'diyah et al., 2025).

Downstream petroleum and natural gas business activities hold an important position because they cover the final stage in the sequence of processing, transportation, storage, trading, and distribution of energy to the public (Pohan et al., 2025). High public demand for fuel oil creates risks of unlawful conduct, including counterfeiting, mixing fuel oil in a manner that fails to meet standards and quality requirements, quality manipulation, and distribution abuse. Such conduct cannot be classified as an ordinary violation because its consequences include damage to consumers' vehicles, economic losses, disruption of the fuel oil trade, and a decline in public trust in state supervision. From the perspective of economic criminal law, fuel oil counterfeiting is a criminal offense aimed at obtaining economic benefit, and its consequences extend beyond the interests of individual victims (Atmasasmita & Wibowo, 2016).

This position is consistent with Rahayu et al. (2025), who show that the circulation of counterfeit energy products causes economic harm to consumers due to inadequate prevention mechanisms.

In certain cases, fuel oil counterfeiting is not always committed as a single act. It may involve distribution networks, the organization of Business Entities or Permanent Establishments, the use of specific chemical substances, document manipulation, and abuse of transportation channels. Humas Polri (2025) reported fuel oil counterfeiting involving subsidized fuel by mixing of industrial chemicals. This finding indicates that fuel oil counterfeiting may involve an operational pattern consisting of several stages of conduct. Accordingly, its enforcement cannot rely solely on one formulation of a criminal offense. In the law enforcement context, Slamet et al. (2023) emphasize the importance of enforcement strategies capable of uncovering offenders' involvement and forms of abuse in petroleum and natural gas activities. The political economy of fuel oil regulation also shows that mixing of fuel oil in a manner that fails to meet standards and quality requirements is inseparable from inadequate governance and weaknesses in energy distribution supervision (Aulia et al., 2025). Thus, the main research problem does not lie in the absence of norms, but in the accuracy of the sentencing framework in determining criminal liability for a series of proven acts.

Law Number 22 of 2001 has provided the legal basis for petroleum and natural gas activities, including obligations to comply with quality standards and the criminalization of fuel oil counterfeiting. These provisions serve two legal functions: as the basis for administrative control over petroleum and natural gas activities and for imposing criminal penalties on conduct that disrupts energy governance. Structurally, petroleum and natural gas regulation also distinguishes between upstream and downstream activities to ensure efficiency in energy sector management (Arifin et al., 2025). In downstream business activities, compliance with quality standards, business licensing, and distribution mechanisms is a prerequisite for ensuring that fuel oil circulating in society meets legal and technical requirements. Non-compliance with these elements may increase the risk of unfair business competition, fuel oil quality manipulation, and consumer loss (Lumeno et al., 2025). In retail transactions, fraudulent fuel oil measurement also demonstrates that violations in this sector can directly harm consumers and lead to legal consequences beyond product quality issues (Ermawan & Sunendar, 2025).

Although the legal basis is available, law enforcement against fuel oil counterfeiting continues to face constraints. Inadequate supervision of transportation, distribution, and trading is often exploited by offenders to avoid criminal liability unlawfully (Erfandi et al., 2025). Firmansyah (2025) shows that abuse in fuel oil transportation remains a problem because licensing supervision and field supervision have not been effective. Husnaldi et al. (2024) also demonstrate that limited numbers and capacity of law enforcement officers, as well as evidentiary difficulties, may hinder the effectiveness of enforcement against illegal trading of subsidized fuel oil. Wibowo (2025) further confirms that inadequate consumer protection and weak coordination in law enforcement may continue to be exploited by business actors when the supervision system is ineffective. These weaknesses are important because fuel oil counterfeiting is often associated with licensing violations, unlawful trading, and consumer fraud.

The character of conduct involving more than one criminal offense requires careful use of the doctrine of concurrent offenses. Fuel oil counterfeiting may be linked to business licensing irregularities, illegal transportation, unlawful trading, fraudulent measurements, and fraud. Haki et al. (2025) show that manipulation in fuel oil transactions may constitute fraud when the elements of the offense are met. Meanwhile, the concept of concurrent offenses provides a dogmatic basis for assessing a series of legal facts that satisfy the elements of more than one criminal offense (Keintjem et al., 2021). Mulyana and Lukitasari (2022) emphasize that a continuing act requires a relationship among acts grounded in a single criminal intent. Precise legal reasoning is necessary so that law enforcement authorities do not confine the offender to a single criminal offense but can also construct the full scope of the proven conduct proportionately (Rahman & Abadi, 2025). Therefore, the analysis of fuel oil counterfeiting must be situated within an evidentiary framework capable of classifying a single act, a continuing act, ideal concurrence, and real concurrence.

Criminal regulation in this sector has become increasingly important following legislative amendments and adjustments. Law Number 22 of 2001 has been amended by Law Number 6 of 2023[1]. In addition, criminal provisions in several sectoral laws have been adjusted through Law Number 1 of 2026. These changes must be examined dogmatically to ensure they do not reduce the coercive effectiveness of criminal sanctions. In the framework of criminal law policy, Arief (2008) emphasizes the importance of legislative rationality in formulating criminal sanctions. Criminal law reform must address the emergence of modern forms of criminal conduct without disregarding the principles of legality and sentencing proportionality (Fitri et al., 2024; Nugraha et al., 2025). At the same time, policies governing strategic natural resources must avoid disharmony of authority that weakens state supervision (Sulaiman et al., 2025).

Previous studies on fuel oil counterfeiting, illegal transportation, consumer protection, and energy subsidies have provided an initial academic basis for this study. However, most studies focus on law enforcement effectiveness, inadequate supervision, consumer loss, and trade governance. Afriyeni and Perdana (2025) examine the

[1]Law Number 6 of 2023 on Enactment of Government Regulation in Lieu of Law Number 2 of 2022.

effectiveness of law enforcement in addressing the mixing of fuel oil that fails to meet standards and quality requirements. Firmansyah (2025) discusses violations of transportation licensing. Rahayu et al. (2025) focus on consumer protection against economic loss. Sa'diyah et al. (2025) place fuel oil within the context of subsidy policy. Aulia et al. (2025) also provide a factual basis for the political economy of fuel oil regulation and the practice of mixing Pertamax in a manner that fails to meet standards and quality requirements. The aspect that has not been extensively examined is the implications of adjustments to criminal penalties for the sentencing framework, particularly changes such as sanctions and reductions in the classification of criminal fines for offenses in the petroleum and natural gas sector.

Based on this underexplored research focus, this study examines the sentencing framework for fuel oil counterfeiting in downstream petroleum and natural gas business activities and assesses the application of concurrent offenses dogmatically. This study also examines the implications of Law Number 1 of 2026 for the change like the sanction and the reduction of the criminal fine to category V. Accordingly, the novelty of this study lies in its assessment of changes in the economic sanction system for fuel oil counterfeiting, particularly in relation to the proportionality of criminal fines, the liability of Business Entities or Permanent Establishments, and the effectiveness of criminal prevention. The adjusted criminal provision is treated as the applicable positive law, whereas the previous criminal formulation is used only as a historical comparator to assess the direction of change in criminal policy.

METHOD

This study is a doctrinal or normative juridical-legal research (Qamar & Rezah, 2020). This method was selected because the study examines positive legal norms, principles of criminal law, and sentencing doctrines relating to fuel oil counterfeiting. The approaches used are the statutory and conceptual approaches. The statute approach is used to examine Law Number 22 of 2001, Law Number 6 of 2023, Law Number 1 of 2023, and Law Number 1 of 2026. The conceptual approach is used to analyze the concepts of concurrent offenses, corporate criminal liability, criminal law policy, sentencing proportionality, and legal protection of society's economic interests.

Legal materials were collected through library research. Primary legal materials include legislation that serves as the legal basis for fuel oil counterfeiting, petroleum and natural gas business activities, the liability of Business Entities or Permanent Establishments, and criminal fine classifications. Secondary legal materials include books, journal articles, and scholarly publications relevant to economic criminal law, the principle of legality, concurrent offenses, consumer protection, and law enforcement in the petroleum and natural gas sector (Sampara & Husen, 2016).

Secondary legal materials were carefully selected to retain authoritative doctrinal literature and recent references relevant to the research focus.

The analysis was conducted normatively and qualitatively with a prescriptive orientation (Irwansyah, 2020). The analysis begins by mapping the sentencing basis for fuel oil counterfeiting under Article 28 section (1) and Article 54 of Law Number 22 of 2001, whose criminal provision has been amended by Law Number 1 of 2026. The next stage examines the liability of Business Entities or Permanent Establishments under Article 56 of Law Number 22 of 2001 and assesses the application of concurrent offenses based on the conformity of criminal elements and the facts of the case. The analysis also examines the position of Article 53 before the amendment as the historical basis for regulating unlicensed downstream activities. Article 52, in its formulation applicable after amendment and adjustment, is then construed restrictively in terms of exploration and/or exploitation. Therefore, the analysis does not treat the amended criminal formulation as a norm that remains applicable.

The final stage assesses the implications of Law Number 1 of 2026, particularly the changes, such as the sanction from cumulative to alternative-cumulative and the reduction of the criminal fine to category V, as referred to in Article 79 section (1) letter e of Law Number 1 of 2023. This analysis also considers additional punishment in the form of confiscation of goods used for or obtained from the criminal offense as an instrument that cannot automatically replace the function of the principal criminal fine. Through this approach, the study develops a prescriptive argument for enacting explicit sector-specific criminal provisions to ensure that criminal fines for economic offenses in the energy sector remain proportionate.

RESULTS AND DISCUSSION

A. Sentencing Framework and the Application of Concurrent Offenses to Fuel Oil Counterfeiting

Fuel oil counterfeiting must be analyzed through the parameter of legal certainty. Article 28 section (1) of Law Number 22 of 2001 stipulates that fuel oil and certain processed products marketed domestically must comply with standards and quality requirements established by the government. This provision serves as the basis for assessment because standards and quality requirements constitute the legality threshold for fuel oil circulating in society. Where fuel oil is counterfeited, mixed with other substances so that it fails to meet standards and quality requirements, or manipulated in quality, the conduct is not limited to an administrative violation. Such conduct may also serve as the basis for assessing fuel oil counterfeiting as a criminal offense.

Based on this framework, Article 54 of Law Number 22 of 2001, whose criminal provision has been adjusted through Law Number 1 of 2026, constitutes the principal basis for sentencing the conduct of imitating or counterfeiting fuel oil, natural gas, and certain processed products as referred to in Article 28 section (1). This article positions fuel oil counterfeiting as conduct that threatens society's interest in obtaining fuel oil that meets standards and quality requirements and disrupts the order of fuel oil trade. Accordingly, charges for fuel oil counterfeiting must remain based on Article 54 in the criminal formulation applicable after adjustment. Other norms may be used only insofar as their criminal elements are fulfilled.

The position of Article 54 of Law Number 22 of 2001 *juncto* Law Number 1 of 2026 as the principal basis is important to prevent errors in the construction of charges. Fuel oil counterfeiting is not merely a technical violation of product quality but a form of conduct that undermines consumer trust and the order of the fuel oil trade. Samuji et al. (2025) affirm that fuel oil counterfeiting may be subject to criminal sanctions under the national petroleum and natural gas legal framework. Afriyeni and Perdana (2025) also show that the effectiveness of law enforcement against the mixing of fuel oil in a manner that fails to meet standards and quality requirements still faces evidentiary obstacles and low imprisonment sentences. These findings indicate that the main problem does not concern the existence of norms, but rather the application of the applicable norm in proof and prosecution.

Sentencing for fuel oil counterfeiting must also take into of the legal subject. Article 56 of Law Number 22 of 2001 provides the basis for imposing liability on Business Entities or Permanent Establishments and their management. This provision is important because fuel oil counterfeiting may involve the organization of Business Entities or Permanent Establishments, distribution facilities, transportation networks, or legal subjects that obtain benefits from quality irregularities. Therefore, law enforcement must not be directed only at direct offenders. It must also assess the existence of control, omission, benefit, or involvement of management and Business Entities or Permanent Establishments within the series of acts.

Article 56 section (2) of Law Number 22 of 2001 provides a specific consequence for Business Entities or Permanent Establishments, namely a criminal fine with an aggravation of up to one-third. This provision shows that the legislature originally understood that criminal offenses in the petroleum and natural gas sector may be committed by legal subjects with greater economic capacity than individuals. Therefore, criminal fines serve a strategic function by reducing the economic benefit derived from the criminal offense. Where the amount of the criminal fine is not proportionate to the value of the benefit obtained by the offender and the loss caused, sentencing against Business Entities or Permanent Establishments may fail to create an adequate deterrent effect. In the consumer protection context, the failure of business actors to ensure fuel oil quality has also been linked to direct losses suffered by end users (Lumeno et al., 2025; Nurhasanah et al., 2026).

In certain cases, fuel oil counterfeiting may reveal conduct involving multiple criminal offenses. Quality counterfeiting may occur together with unlicensed transportation, unlawful storage, illegal trading, fraudulent measurement, or consumer fraud. Ermawan and Sunendar (2025) show that fraudulent fuel oil measurement constitutes a form of violation that directly harms consumers and may give rise to legal consequences. Haki et al. (2025) show that manipulation in fuel oil transactions may constitute fraud where deceit or a series of false statements causes consumer loss. In such circumstances, law enforcement authorities must assess whether the proven conduct satisfies several criminal provisions, including a continuing act or several acts that each independently constitutes a criminal offense.

This framework requires careful application of the doctrine of concurrent offenses. Keintjem et al. (2021) distinguish concurrent offenses into ideal concurrence (concursus idealis), continuing offense (voortgezette handeling), and real concurrence (concursus realis). Mulyana and Lukitasari (2022) emphasize that a continuing offense requires a relationship among acts based on a single criminal intent. In sentencing doctrine, the selection of a sentencing model for conduct satisfying several criminal provisions must consider the absorption system, aggravated absorption system, or cumulative system proportionately so that sentencing does not lose its basis in justice (Hiariej, 2016). Therefore, the application of concurrent offenses in fuel oil counterfeiting cases must be based on proof of the elements of each criminal offense, the relationship among acts, the time when the criminal act occurred, the manner of committing the offense, and the offender's purpose.

In the context of downstream business activities, Article 53 of Law Number 22 of 2001, prior to the amendment, serves only as a historical basis for understanding the development of sectoral criminal regulation. That provision formerly separated criminal sanctions for processing, transportation, storage, and trading without a business license. This separation shows that the previous petroleum and natural gas legal regime treated each stage of downstream business activities as a specific object of criminal supervision. However, the position of Article 53 in this study is not that of a positive legal norm that remains applicable after amendment. It is used as a historical comparator to assess the shift in criminal policy direction.

After amendments to legislation, the use of Article 52 of Law Number 22 of 2001 *juncto* Law Number 6 of 2023 must be situated carefully. The formulation of Article 52 applicable after amendment and adjustment concerns exploration and/or exploitation without business licensing or a cooperation contract. Therefore, Article 52 cannot be positioned as the general basis for all forms of unlicensed downstream business activities. It may be used in the construction of concurrent offenses only where the facts of the case show that the series of acts involving fuel oil counterfeiting is also connected to the elements of exploration and/or exploitation without a licensing basis or cooperation contract. Where the conduct occurs only in the area of transportation, storage, trading, distribution, the mixing of fuel oil in a manner that fails to meet standards and quality requirements, or measurement manipulation, the applicable article must conform to the elements of the proven conduct.

This clarification is necessary so that the application of concurrent offenses does not violate the principle of legality. In criminal law, extending the meaning of a norm beyond the formulation of the article may create a risk of analogy. Therefore, this study does not position Article 52 as a legal basis replacing the entire regulatory scope of Article 53 before the amendment. Article 53 before amendment is used only as a historical comparator, while Article 52 is used in the formulation applicable after amendment and adjustment. Through this approach, the analysis maintains its focus on changes in the sentencing system without applying an article beyond its formulated elements and without positioning an amended norm as positive law that remains applicable.

The application of concurrent offenses to fuel oil counterfeiting must therefore be developed through two layers of analysis. The first layer is the primary charge for counterfeiting under Article 54 of Law Number 22 of 2001, whose criminal provision has been adjusted through Law Number 1 of 2026. The second layer is the formulation of charges within the construction of concurrent offenses based on other applicable norms that truly correspond to the series of acts, such as licensing violations, transportation offenses, trading offenses, fraud, or other criminal offenses whose elements are proven. This construction is more dogmatically appropriate because it does not treat a single article as the sole basis for all forms of conduct. It requires specific proof of each element. Rahman and Abadi (2025) emphasize that logical and precise legal reasoning is necessary for law enforcement against fuel oil offenses to determine offenders' criminal liability fairly, without disregarding the accuracy of the normative basis.

This construction corresponds to the need for law enforcement against organized criminal offenses in the petroleum and natural gas sector. Humas Polri (2025) reports that fuel oil counterfeiting may be carried out in an organized manner by mixing of specific chemical substances. Firmansyah (2025) highlights non-compliance with transportation licensing. Husnaldi et al. (2024) demonstrate limitations in supervision in enforcing the prohibition against illegal trading of subsidized fuel oil. Erfandi et al. (2025) also show that subsidized fuel oil transportation is at high risk of violations and requires more effective regulation and supervision. These findings indicate that the use of concurrent offenses is important, but it must be based on the relationship between the applicable norm and the facts of the case.

Accordingly, the sentencing framework for fuel oil counterfeiting must be situated within the conformity between the effectiveness of law enforcement and the principle of legality. Article 54 of Law Number 22 of 2001 *juncto* Law Number 1 of 2026, remains the principal basis for counterfeiting. Article 56 extends liability to Business Entities or Permanent Establishments and their management. Meanwhile, concurrent offenses are applied based on the conformity between the elements of the conduct and the applicable norm. This approach is more proportionate because it allows criminal liability to be determined for several acts without expanding a norm that is unsupported of the article's formulation. In addition, weak coordination and inadequate consumer protection that continue to be exploited by business actors must serve as the basis for strengthening supervision over downstream petroleum and natural gas business activities. This is necessary so that law enforcement is not applied only after the loss has expanded (Pohan et al., 2025; Wibowo, 2025). After mapping the sentencing framework and the application of concurrent offenses, the next analysis assesses the effectiveness of the penalties applicable after the adjustment of criminal provisions.

B. Implications of Criminal Provision Adjustment for the Reduction in Criminal Fine Classification and the Change in Sanction

The adjustment of criminal provisions through Law Number 1 of 2026 has significant implications for fuel oil counterfeiting. The main problem does not lie in the removal of the criminal qualification of an act. Fuel oil counterfeiting remains a criminal offense. The main problem lies in the reduced effectiveness of criminal fines due to changes such as sanctions and a reduction in the classification of criminal fines. Therefore, the more accurate terms for describing this problem are a reduction in the classification of criminal fines or a reduced effectiveness of criminal fines, not decriminalization in the sense of removing the criminal qualification of an act.

Within the framework of criminal law policy, changes to criminal sanctions must be examined in terms of rationality, proportionality, and the effectiveness of criminal prevention. Arief (2008) positions criminal law policy as an instrument for assessing the conformity between the formulation of criminal sanctions established by the legislature and the character of the criminal offense. In fuel oil counterfeiting, punishment does not merely serve to censure the offender's conduct. It also functions to prevent the offender from obtaining economic benefit from a criminal offense that disrupts the order of the fuel oil trade. Therefore, changes to criminal sanctions must be assessed based on their capacity to maintain conformity among legal certainty, sentencing proportionality, and protection of society.

The first change that creates a juridical problem is the shift from a cumulative sanction to an alternative-cumulative sanction. Before the adjustment through Law Number 1 of 2026, the formulation of imprisonment and criminal fine in Article 54 of Law Number 22 of 2001 placed both types of punishment as cumulative sanctions. After the adjustment, the formulation "and/or" permits the imposition of imprisonment only, a criminal fine only, or both. This comparison is used only to show the direction of change in criminal policy, not to position the previous formulation as a norm that remains applicable. In general, the alternative-cumulative formulation gives judges authority to impose punishment based on the facts of the case, the offender's culpability, and the consequences of the criminal offense. However, in the context of an economic criminal offense oriented toward economic benefit, this change creates a risk of reduced effectiveness of criminal fines when the fine is not imposed in proportion to culpability and the consequences of the offense. Hiariej (2016) emphasizes that the sentencing framework must be read in relation to culpability, the objectives of punishment, and sentencing proportionality. Therefore, a change like the sanction must not eliminate the capacity of criminal law to deter.

The criticism of the formulation "and/or" does not reject the principle of judicial independence. This study's criticism is directed at legislative policy formulation that provides overly broad sentencing limits for economic criminal offenses. In fuel oil counterfeiting cases, imprisonment and criminal fines serve different functions. Imprisonment restricts the offender's liberty, whereas criminal fines reduce the economic benefit obtained from the criminal offense. Where one of these instruments is not applied proportionately, sentencing risks failing to address the purpose of obtaining economic benefit from the offense.

The second, more problematic change is the reduction of the criminal fine to category V. Article 79 section (1) letter e of Law Number 1 of 2023 sets category V criminal fines at IDR 500,000,000.00. This provision serves as the reference for adjusting the criminal fine, which historically reached IDR 60,000,000,000.00. This comparison functions only as an academic evaluation of the change in criminal policy, not as a basis for reinstating the amended criminal fine limit. The reduction creates a proportionality problem because the benefit obtained by the offender and the loss caused by fuel oil counterfeiting may exceed that amount. In economic criminal law, an excessively low fine may become a financial consequence that is not commensurate with the benefit obtained from the criminal offense. Atmasasmita and Wibowo (2016) provide the basis for the claim that economic criminal law analysis must consider the rationality of the benefit and the penal burden so that punishment does not lose its preventive effectiveness.

The implication of the fine reduction becomes clearer when compared with the fines imposed on Business Entities or Permanent Establishments. Under Article 56 section (2) of Law Number 22 of 2001, the criminal fine imposed on Business Entities or Permanent Establishments may be increased by up to one-third. As a historical comparator, the fine before adjustment could reach IDR 60,000,000,000.00 and increase to IDR 80,000,000,000.00 after a one-third aggravation. After the adjustment, a category V criminal fine of IDR 500,000,000.00 increases to approximately IDR 666,666,666.00 due to one-third aggravation. This comparison shows a reduction in the effectiveness of criminal fines against Business Entities or Permanent Establishments. The term absolute immunity is unnecessary, but the change still indicates a risk of reduced deterrence for legal subjects with substantial economic capacity.

This problem cannot be fully replaced by additional punishment. Article 58 of Law Number 22 of 2001 provides for the confiscation of goods used for or obtained from the criminal offense. This instrument is relevant as a complement to sentencing, but it cannot automatically replace the function of the principal criminal fine. Confiscation depends on proof, the object subject to confiscation, and judicial consideration. Therefore, additional punishment in the form of confiscation of goods used for or obtained from the offense cannot justify a reduced principal criminal fine limit that is not commensurate with the scale of loss or benefit arising from the offense. The function of criminal fines must remain preserved as a principal instrument to prevent offenders from enjoying the proceeds of crime.

Where a legal change is more favorable to the defendant, criminal law recognizes the principle of applying the more favorable provision under positive criminal law. This study does not reject the applicability of that principle. The criticism raised concerns about legislative policy. The legislature must be more careful when adjusting penalties for economic criminal offenses with broad consequences. Where penalty adjustment disproportionately reduces the effectiveness of criminal prevention, the matter requiring correction is the formulation of legislative policy, not a fundamental principle of criminal law. Fitri et al. (2024) place the principle of legality as a guarantee of legal certainty. Nugraha et al. (2025) show that the transformation of Indonesia's criminal law system must maintain a balance between criminal law reform and sentencing effectiveness. Accordingly, this study's recommendation is situated in the field of legislative reform, not in a proposal for judges to disregard positive criminal law or to select again a criminal formulation that has been amended.

Weaknesses in legislative policy formulation must also be read in the context of economic criminal offenses and energy regulation. Aulia et al. (2025) show that the mixing of fuel oil in a manner that fails to meet standards and quality requirements is connected to political-economic issues in energy regulation. Therefore, criminal enforcement cannot be separated from policies governing trade order. Where criminal fines are too low, Business Entities or Permanent Establishments may treat them as a penal consequence that fails to serve as an adequate deterrent. This condition is dangerous in the energy sector because fuel oil counterfeiting affects consumers, state revenue, and the distribution order.

These impacts are increasingly relevant in relation to public loss and fiscal burden. Dewi et al. (2022) show that fuel oil is directly connected to society's purchasing power for basic needs. Rahayu et al. (2025) affirm that the circulation of counterfeit energy products harms consumers economically. Sa'diyah et al. (2025) situate fuel oil within the context of subsidy policy and its consequences for budgetary resilience. Within the framework of strategic natural resource management, Sulaiman et al. (2025) also demonstrate the importance of policies aligned with legal certainty and strengthened governance. Therefore, the reduction of criminal fines for fuel oil counterfeiting cannot be positioned merely as technical harmonization. It constitutes a criminal policy issue affecting society's economic protection.

These findings show that the central problem of Law Number 1 of 2026 in the context of fuel oil counterfeiting is the mismatch between the nature of the criminal offense, the consequences caused, and the severity of the threatened penalty. The alternative-cumulative formulation provides sentencing options. At the same time, category V reduces the effectiveness of criminal fines. Where both changes operate together, sentencing for economic criminal offenses risks becoming less proportionate. Therefore, law enforcement authorities must optimize the imposition of imprisonment and criminal fines when supported by the elements of the case. At the same time, the legislature needs to reassess the classification of criminal fines for economic criminal offenses in the petroleum and natural gas sector as a sector that controls resources essential to the livelihood of the people.

Prescriptively, criminal policy reform cannot be carried out by selecting an old norm and amending it again. Reform must be carried out through the enactment of explicit sector-specific norms. First, the legislature needs to reformulate the model of criminal sanctions for certain economic offenses in the petroleum and natural gas sector, particularly where the nature of the conduct is oriented toward obtaining economic benefit and produces broad consequences. Second, the classification of criminal fines for Business Entities or Permanent Establishments in energy sector offenses must be formulated specifically so that it is not applied directly without a normative exception to a fine category that is too low. Thus, the basis of this study's recommendation is the need to enact sector-specific criminal provisions that expressly determine a proportionate maximum criminal fine.

Sector-specific criminal provisions must be formulated in legislation that expressly governs criminal offenses in the petroleum and natural gas sector. A new formulation is necessary to avoid uncertainty concerning the maximum criminal fine for Business Entities or Permanent Establishments. It is also necessary so that sentencing proportionality does not depend solely on judicial interpretation but is expressly determined by the legislature. Under this model, the criticism of Law Number 1 of 2026 remains within the field of legislative policy. The criticism is not directed at reinstating an amended criminal norm, but at promoting the enactment of a new norm that is more consistent with the character of economic criminal offenses in the energy sector.

Accordingly, Law Number 1 of 2026 cannot be positioned merely as an instrument of technical adjustment to sector-specific criminal provisions. This Law must be assessed based on its impact on the effectiveness of law enforcement in the petroleum and natural gas sector, particularly because changes such as sanctions and the reduction of the criminal fine to category V may affect the proportionality of sentencing for economic criminal offenses. In fuel oil counterfeiting, reductions of criminal fines and changes to sanctions may reduce the effectiveness of criminal prevention, particularly in cases involving Business Entities or Permanent Establishments with substantial economic capacity. Therefore, criminal policy reform in the petroleum and natural gas sector must ensure conformity among legal certainty, sentencing proportionality, protection of society, and restoration of the order of fuel oil trade.

CONCLUSIONS AND SUGGESTIONS

Fuel oil counterfeiting in downstream petroleum and natural gas business activities cannot always be classified as a single criminal offense. Article 54 of Law Number 22 of 2001, whose criminal provision has been amended by Law Number 1 of 2026, remains the principal basis for sentencing in cases of fuel oil counterfeiting. Article 56 of Law Number 22 of 2001 provides the basis for imposing liability on Business Entities or Permanent Establishments and their management. The application of concurrent offenses is necessary when the facts of the case show other conduct that satisfies the elements of a criminal offense, such as licensing violations, illegal transportation, unlawful trading, fraudulent measurement, or fraud. However, the application of concurrent offenses must remain subject to the principle of legality and must not extend the formulation of an article beyond its prescribed elements.

An examination of amendments to laws and regulations shows that, prior to the amendment, Article 53 could only serve as a historical basis for explaining the direction of change in the criminal regulation of unlicensed downstream activities. This provision is not positioned as a positive legal norm that remains applicable after amendment. Meanwhile, Article 52, in its formulation applicable after amendment and adjustment, must be interpreted restrictively, limited to the elements of exploration and/or exploitation without business licensing or a cooperation contract. Therefore, Article 52 is not properly positioned as the general basis for all unlicensed downstream activities. This distinction is necessary to maintain the juridical validity of the manuscript and to avoid an analogical expansion of criminal norms.

Law Number 1 of 2026 creates a juridical problem in sentencing effectiveness because it changes the nature of the sanction into an alternative-cumulative formulation and reduces the criminal fine to category V. This change does not remove the criminal qualification of the conduct, but it may reduce the effectiveness of criminal fines. In cases involving Business Entities or Permanent Establishments, the comparison between the historical formulation before adjustment and the category V criminal fine reveals a mismatch between the scale of an economic criminal offense and the capacity of the criminal fine to reduce the offender's economic benefit. This comparison is used only as a historical basis for assessing changes in sentencing proportionality, not to reinstate an amended criminal norm. Additional punishment in the form of confiscation remains relevant, but it cannot automatically replace the role of the principal criminal fine, as it depends on the object, proof, and judicial consideration.

Based on these findings, law enforcement authorities need to formulate charges carefully according to the elements of each criminal offense, particularly by combining Article 54 of Law Number 22 of 2001 *juncto* Law Number 1 of 2026 as the principal basis for counterfeiting with other norms whose elements are proven in the facts of the case. Prosecutors should seek imprisonment and criminal fines proportionate to the facts of the case, showing the purpose of unlawfully obtaining economic benefit, the involvement of Business Entities or Permanent Establishments, and public loss. At the same time, the legislature needs to reassess the classification of criminal fines for economic criminal offenses in the energy sector. Future reform should be carried out through the enactment of explicit sector-specific criminal provisions, rather than by amending an old criminal norm. These new provisions must determine a maximum criminal fine proportionate to the size of Business Entities or Permanent

Establishments and ensure that penalty adjustments do not weaken the protection of society and the order of the fuel oil trade.

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