

THE BAIS HAVAAD

HALACHA JOURNAL

Family, Business, & Jewish Life Through the Prism of Halacha



VOLUME 5779 · ISSUE XXXIII · PARSHAS CHUKAS · A PUBLICATION OF THE BAIS HAVAAD HALACHA CENTER

SPIRITED AWAY: THE CASE OF THE LOST LIQUOR

Adapted from a shiur Rabbi Yosef Greenwald

THE LEAVEN THAT LEFT

A man we'll call Dovid was traveling two months ago with whiskey in his luggage. The airline lost the bag.

Weeks went by. Pesach came and went. Last week the suitcase, invigorated from having traveled the world, was delivered to his home.

May he drink the whiskey?

Chazal (Pesachim 29) forbade deriving benefit from *chametz she'avar alav haPesach*: If one possessed chametz on Pesach in violation of the Torah prohibitions of *bal yaira'eh uval yimat'ai*, he is penalized by Chazal in that the chametz becomes *asur behana'a*. Is the long-lost whiskey subject to this *issur*?

Dovid, like everybody else, sold his chametz to a non-Jew through his Rav. As a result of that sale, the whiskey spent Pesach safely ensconced in the hands of a non-Jew, so it would seem that no *issur* would obtain.

But wait. The Gemara says (Bava Kama 69) that a stolen object cannot be dedicated to *hekdesh*, neither by the thief nor by the owner. The thief, because the item isn't his; the owner, because it isn't in his *reshus*. Although it remains his property, the fact that the stolen item is not under the owner's dominion weakens his *ba'alus* to the point that he can't be *makdish* the object. And according to all

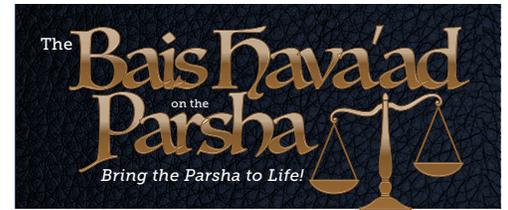
the Rishonim save the Rashba, he cannot sell it either. So it would appear that Dovid was in no position to sell the liquor while it did laps on a luggage carousel in Helsinki.

But perhaps our case is different. The airline is liable for baggage entrusted to its care, rendering the airline a *shomer*. The Ramban (Bava Metzia 21, 26; see Nesivos Hamishpat 259) says that while in the custody of a *shomer*, an object remains in the *reshus* of its owner, because *yad shomer k'yad ba'alim*—the custodian is an extension of the owner. So perhaps Dovid had the power to sell it after all. (If the bag was taken in error by another passenger, he did not.) However, some *poskim* question whether lost chametz—think cookies in the back of the glove compartment—is included in a sale, which would be a problem in our case.

We might invoke here, to supplement the case for leniency, the fact that there is extensive debate among the *poskim* regarding the chametz status of whiskey derived from grain, based on the Gemara in Chulin 120-121. (See Sha'arei Teshuva O.C. 448, Teshuvos P'nei Yehoshua, and Sha'agas Aryeh.) Most *poskim* conclude that whiskey is *chametz gamur*.

Should the whiskey be discarded even if it was included in the sale? It is recorded in Ma'aseh Rav that the Vilna Gaon after Pesach would avoid deriving benefit even from chametz that had been sold to a non-Jew, out of concern that the sale might not have been sincere. However, some suggest that today, when selling chametz before Pesach is widespread and standardized, perhaps the Gaon would not have maintained this practice. R' Moshe Feinstein insists that one should not avoid buying chametz after Pesach from an observant shopkeeper that had sold it, because that would cast asper-

(continued on back)



Rav Yosef Jacobowitz

“לא מקום זרע ותאנה וגפן ורימון”

Below are selected rules of *kedima b'berachos* when one has multiple fruits and vegetables he wishes to eat:

If there are two fruits of *shivas haminim*, the *beracha* of *haeitz* is generally recited on the ones mentioned first in the *pasuk* in Devarim: **זית שמן ודבש** and **אֲרֶז חֲטָה וּשְׁעוֹרָה וּגְפֵן וְתַאֲנִיָּה וְרִימֹן** precede the **גִּפְנֵי תַאֲנִיָּה וְרִימֹן** since they are closer to the second mention of **אֲרֶז** than the former three are to the first mention (*Shulchan Aruch* 211:4).

If one has a *shivas haminim* fruit, e.g., grape, together with a non-*shivas haminim* fruit, e.g., apple, the *beracha* is recited on the grape because the *shivas haminim* status renders it more *chashuv* (S.A. 211:1).

If one has two non-*shivas haminim* fruits, one recites the *beracha* on whichever one usually prefers-- *chaviv* (S.A. 211:1).

(continued on back)

המרכז לרפואה ע"פ הלכה שיי בית הוועד

MEDICAL HALACHA CENTER

HAVE A QUESTION?

HALACHIC GUIDANCE in all MEDICAL MATTERS

Consultation Line 732.276.2183

Email info@themedhc.org

GENERAL HALACHA

TESHUVA FOR SHOPLIFTING

By Rabbi Yitzchok Bassar

Q: In his teenage years, someone shoplifted from a store owned by a family friend. He wants to make amends. Is it sufficient to anonymously return the value of the item stolen, or must he take the difficult step of identifying himself and asking *mechila*.

A: It is preferable to ask *mechila*, but he is not required to do so. In a case of difficulty one may be lenient and not ask.

There is an apparent contradiction regarding this issue. The Rambam in the Laws governing Personal Injury (Hilchos Chovel U'mazik 5:9) states that there is a distinction between causing another person bodily harm, and damaging monetary possessions. The latter needs only to pay for the damages incurred, whereas the former must also ask *mechila*, forgiveness, from the victim. This would imply that stealing, which only involves monetary harm, would not obligate requesting *mechila*.

However, in the Laws of Teshuva the Rambam (2:9) states that Teshuva only helps for transgressions Bein Odom LaMokom, between man and his Creator. However regarding transgressions against another person, such as causing him bodily harm, or cursing him, or stealing from him, one will never attain atonement until he returns what he has taken, and appeased his friend.

The *meforshim* point out this seeming contradiction. The *meforshim* take two approaches in answering this question. The Lechem Mishna (Hilchos Chovel) answers by noting that the Rambam in Hilchos

Teshuva refers to stealing as *Gezaila*, which connotes a form of thievery whereby the thief takes the object by force from the owner, and proceeds to derive personal benefit from the object. Such an act causes emotional distress, and therefore warrants asking for *mechila*. However the Rambam in Hilchos Chovel is referring to damaging another person's possessions, which lacks the element of causing significant emotional distress, and would therefore not require asking *mechila*.

The Sefer Hakovetz (see also Darchei Dovid B"K 91b) takes a completely different approach. He understands the Rambam in Hilchos Chovel to be discussing the minimum obligation to attain any level of atonement. Only one who causes bodily harm would be included in such an obligation. However in Hilchos Teshuva the Rambam discusses the proper approach that a penitent person should have, and that is to request *mechila* even for transgressions that are not as severe as causing bodily harm.



Getting back to our question, whether a shoplifter is obligated to ask *mechila*, it would depend on these two approaches. According to the Lechem Mishna, since the stealing took place in a manner that did not cause emotional distress, he would not be obligated to ask *mechila*.

However, according to the approach of the Sefer Hakovetz it would be proper to ask *mechila*.

In our case, since asking *mechila* involves emotional difficulty, and according to the Lechem Mishna there is no obligation at all to ask *mechila*, and even according to the Sefer Hakovetz doing so would not be a strict obligation, one may be lenient and not disclose his identity for the purpose of asking *mechila*.

It would be proper to send an anonymous letter apologizing for his indiscretion and asking for forgiveness.

JOIN THE CHAFETZ CHAIM
NIGHTLY TELECONFERENCE

GIVEN BY GEDOLEI RABBANIM AND POSKIM

718.424.8880

MATTERS OF INTEREST

AVISSAR FAMILY RIBBIS AWARENESS INITIATIVE:

BEFRIENDING WITH INTENTION TO BORROW

A rich man moves into the neighborhood with his family and obviously makes many friends. May one befriend him with the intention of borrowing from him in the future?

May a neighbor give the man a housewarming present so that he will agree to lend him money tomorrow?

If he did give presents, but learned that there is a ribbis issue, does he need to take the presents back?



Speaking nicely to someone with the eventual intention to borrow from them, is not a problem of ribbis according to most *poskim* (who hold that there is no issue of *ribbis mukdemes* through words) though there might be a *chanifah* (flattery) issue.

According to many *poskim* giving small presents is also permitted, unless one states clearly that they are giving it as an incentive to receive a loan, or if they would not have done so

otherwise. Even then, it is only forbidden when the intention is to borrow in the *near future*.

Giving large presents with the intention of receiving a loan in the near future is considered *ribbis mukdemes*. This may apply even to someone who usually gives presents, since in our case he is doing so with specific intent to borrow.

In the event that one already gave the gift, they do not need to take it back.

YOU DAILY LIVING

LAWS RELATED TO SHAVUOS

Weekly Questions



I'm going on a trip and I don't have a proper *netilas yadayim* cup. Can I use a disposable cup?

The *halacha* requires that one use a *keli* (vessel) for *netilas yadayim*. *Poskim* differ as to whether a disposable cup (such as a paper cup, or plastic bottle) is acceptable. Igros Moshe (OC 4:39) ruled that one should *not* use a disposable cup for *kiddush* because *kiddush* requires that the cup have *chashivus*, or stature. Some draw the conclusion from this *teshuva* that a disposable cup is called *akeli*; although it is not acceptable for *kiddush* it would be acceptable for *netilas ya-*

dayim, which does not require *chashivus*. *Minchas Yitzchak* (10:23) rules that one should avoid using a disposable cup.

Rav Schachter, *shlit"a*, ruled that since even a disposable cup is often used multiple times in the course of a meal, it clearly qualifies as a *keli*. Many of the lenient *poskim*, however, agree that if one can avoid the question by thinking ahead and packing a proper (that is, durable) cup, one should do so. (see *Piskei Teshuvos* 159:7).

The Daf
in
Halacha
Bring the Daf to Life!

מסכת ערכין

RAV BINYOMIN HOLLANDER

דף כ"ו Till Death Do Us Part

דף כ"ז Take My Word for It

דף כ"ח Don't Overspend

דף כ"ט Acquiring Issurei Hana'ah

דף ל' Subleasing in Halacha

דף ל"א At the Eleventh Hour

דף ל"ב A Mezuzah at Sea

(continued from front pg.)

sions on the merchant inappropriately.

The Chazon Ish, who scrupulously followed the Gaon's views, is quoted as having similarly objected to acting stringently in this arena today, but for a different reason: Because we rule that *chametz she'avar alav haPesach* is only forbidden *mideRabbanan* as a penalty for having trifled with the Torah prohibitions of chametz, there would be no basis to penalize a store owner who diligently followed the Halacha and made the Rav a *shaliach* to sell his chametz, *even if in fact the sale wasn't effective*. Maharam Schick and S'dai Chemed are quoted expressing a similar view.

May we merit to avoid forbidden chametz after Pesach as we avoided it during Pesach.

(continued from front pg.)



If the two fruits/vegetables have two different *berachos* (even if one is from *shivas haminim*), e.g., grape and cucumber, some say he may precede whichever *beracha* he wishes, while others say he should precede whichever food is more *chaviv* (S.A. 211:1). The *Mishna Berura* (9) rules like the second approach. If neither is more *chaviv*, he recites *haeitz* before *haAdama* (M.B. 18).

If one has raw wheat (including granola according to some *poskim*) and another *shivas haminim* fruit, although two different *berachos* are recited (like in #4), one still recites

haadama on the wheat first since it comes first in the *pasuk*, unless the other food is *chaviv* (Magen Avraham 2; Shelah).

If one of the two fruits is *shalem* and the other is not, one recites the *beracha* on the *shalem* in cases #2 and #3 (M.B. 4). But it is uncertain whether this is true in case #4 (Shaar Hatziun 5).

PARTICIPATE IN OUR MILLION DOLLAR MATCHING CAMPAIGN

RAISING THE **BAR** GOING LIVE

WWW.MATCH4HALACHA.COM



BAIS HAVAAD HALACHA CENTER

RABBI YEHOShUA WOLFE, MENAHEL
RABBI YEHOShUA GREENSPAN,
SAFRA D'DAYNA

105 River Ave, #301, Lakewood, NJ 08701
1.888.485.VAAD (8223)
www.baishavaad.org
info@thehalachacenter.org



Business Halacha Services



Bais Din & Dispute Resolution



Zichron Gershon Kollel for Dayanus



Medical Halacha Center



Kehilla & Bais Din Primacy Initiative



Halachic Awareness & Education

Midwest Rabbi Dovid Aron Gross
Brooklyn Rabbi Dovid Housman
South Florida Rabbi Yosef Galimidi, Menahel
Rabbi Meir Benguigui, Safra D'dayna

לע"נ ר' דוד ב"ר משה גרוסמן ז"ל

NAFTALI
www.naftaliinc.com

To become a corporate sponsor of the BHHJ or disseminate in memory/zechus of a loved one email info@baishavaad.org