

ספירימ

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סיוע לציבור
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Benefitting from Non-Kosher Food

It is forbidden to eat non-kosher food, but as a rule, it is permitted to have benefit from it. [There is a separate Rabbinic prohibition against doing business involving non-kosher food, but that topic is beyond the scope of this article]. However, the *Mishnayos* at the end of *Temurah* list quite a number of items which are also *assur b'hana'ah* (forbidden to have benefit/pleasure from them). Many of the items listed there aren't relevant to the average consumers,¹ but the following are ones that any of us may encounter:

Stam Yayin

Wine (or grape juice) which was poured in an idolatrous service is known as *yayin nesesch* and is *assur b'hana'ah*. In addition, there is a Rabbinic prohibition against drinking any wine which a non-Jew touched; this wine is known as *stam yayin* and there is a difference of opinion as to whether it is or isn't *assur b'hana'ah*. *Rema* (YD 123:1) rules that *l'chatchilah* one should adopt the stricter opinion but in a case of great loss one may be lenient.

Accordingly, not only may one not drink non-kosher wine, brandy, cognac, or a beverage sweetened with non-kosher white grape juice concentrate, but one may not purchase a bottle to give to a non-Jewish business associate as a present. The reason is that when one gives a present it generates good will, and in that context the giver of the present is (also) considered to be benefiting from the gift. Therefore one may not give *issurei hana'ah* as a gift to someone else.

Basar B'chalav

If meat was cooked with milk, the resulting food is referred to as *basar b'chalav* and is

assur b'hana'ah. [The *issur hana'ah* doesn't apply to mixtures which are only forbidden *mid'rabannan* such as poultry cooked with milk, or meat and milk mixed together without cooking].

This is why Jews have to be careful about the food they feed their pets. Of course, the pet is allowed to eat non-kosher food, but it is reasonably common for dog or cat food to contain whey or casein, both of which are milk derivatives,² and if the pet food also contains beef, the owner may not feed them to his animal unless he can somehow ascertain that they aren't cooked at the factory (and they aren't warmed up at home).

Chametz

The *Torah* forbids us from having benefit from *chametz* on *Pesach*, and *Chazal* declared that if a Jew owned *chametz* on *Pesach* that food remains *assur b'hana'ah* forever, even after *Pesach* ends. [These prohibitions are limited to *chametz*, but don't apply to *kitnios*].

As a result of this halacha, for example, during the 8 days of *Pesach* a Jew may not relieve itching by soaking in an oatmeal bath, and (in many cases) he cannot be paid to work as a baker of *chametz* goods – even if the *chametz* belongs to a non-Jew. Similarly, if the Jewish owner of a liquor store forgot to sell his *chametz* before *Pesach*, he would likely be forbidden to sell the *chametz* liquors to non-Jews after *Pesach*. [One who is faced with such a situation should consult with a Rabbi].

Arlah

For the first three years that a tree grows, one may not eat or benefit from any fruit that the tree produces. Although this prohibition, known as *arlah*, applies both in and out of *Eretz Yisroel*, there is a significant leniency regarding *arlah* in *chutz la'aretz*. If one is unsure whether a fruit that grew in *chutz la'aretz* is *arlah*, they may assume

¹ Among the other *issurim* which are *assur b'hana'ah* are some which relate to the *Beis HaMikdash* (חולין בעזרה, פסולי המוקדשים, צפורי מצורה, קדשים, שער חיר) require a specific form of *Beis Din* (שור הנסקל, עגלה ערופה, עיר הנדחת, רובע ורובע) or are relatively uncommon (כלאי הכרם, פטר חמור, קונמות). *Yayin nesesch* noted in the text is one form of the larger *issur hana'ah* which relates to all *Avodah Zara*. This halacha received unexpected prominence in a broader context a few years ago when *shaitels* were suspected of originating from Indian *Avodah Zara* service.

² Lactose is another common milk derivative, but it is only considered dairy *mid'rabannan* (for reasons which are beyond the scope of this document) and therefore cannot create *basar b'chalav* which is *assur b'hana'ah*.



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that it isn't *arlah* and eat the fruit.³ On the other hand, if that same doubt was raised about a fruit from Israel, the fruit would be *assur b'hana'ah*.⁴

Due to the aforementioned leniency, most Americans assume that *arlah* only applies if they plant or replant a tree in their backyard (as the 3 years often have to be recounted after replanting) or travel to Israel, but is irrelevant when they shop in their local supermarket. This is basically true, but if one accidentally purchased an Israeli fruit, and then, after checking with an Israeli Rabbi, found that the fruit has *arlah* concerns,⁵ the fruit is *assur b'hana'ah* and can't even be given as a present to a non-Jewish acquaintance or employee (as explained above).



Evaluating Risk

We are all aware of the *Torah* imperative to avoid even the smallest chance of danger regardless of the financial or physical cost or even if it involves the violation of a *mitzvah*. Yet, we intuitively understand that the *Torah* allows us to drive in a car even though in 2006, 1.42 people died for every 100 million miles driven.⁶ An analysis of some of the rationales for why this is permitted will help us understand how *Poskim* evaluate other less obvious situations to decide whether the *Torah* wants us to ignore or avoid a specific risk.

Note: The goal of this article is to present some factors involved in this type of decision, and the article is not intended to serve as a source for a halachic ruling. Rulings on these types of questions must be addressed by a *Posek*.

There appear to be a number of possible reasons to permit an act that appears to have some element of risk:

1. Although the halacha requires that one be concerned with even a tiny chance of danger, there may be some risks that are so remote that we may ignore them even as they relate to *sakanah*. An extreme example of this is that *Chasam Sofer*⁷ says

that (as relates to *pikuach nefesh*) one need not be concerned about occurrences which happen once in a thousand years. *Chasam Sofer's* guideline is obviously meant as a hyperbole, and the exact level at which something is considered truly remote as relates to *sakanah* requires further clarification.

2. In deciding whether an act meets the aforementioned criteria of being "too risky", one must be careful to properly identify the "act", as follows. For example, while there is reason to believe that eating too much salt raises one's blood pressure, eating too much pop leads to diabetes, and basking too much in the sun may lead to skin cancer, that doesn't mean that it is forbidden to ever consume salt or sugar or walk outdoors. In each of these cases, it is a dangerous "act" when one has more than a specific amount of the otherwise-safe item, and therefore one cannot classify salt as being dangerous and forbidden.⁸
3. Even when the item is considered truly dangerous, the *Gemara*⁹ tells us that if people commonly ignore the danger inherent in a specific act (דשו ביה רבים), others are permitted to follow suit and rely on *Hashem's* protection. At the same time, as people become more concerned with that particular danger, the previously-permitted act may become forbidden. A full discussion of this principle, known as *שומר פתאים ה'*, is beyond the scope of this article,¹⁰ but the following words of Rav Shlomo Zalman Auerbach¹¹ are instructive:

ולענין עיקר הדבר מה נקרא ספק פקוח נפש ומה לא, ועד איפה הוא הגבול, גם אנכי בענין הסתפקותי טובא בזה, אלא שמצד הסברא נלענ"ד דכל שדרך רוב בני אדם לברוח מזה כבורח מפני הסכנה הרי זה חשיב כספק פקוח נפש וקרינן ביה בכה"ג וחי בהם ולא שימות בהם, אבל אם אין רוב בני אדם נבהלים ומפחדים מזה אין זה חשיב סכנה, קצת דוגמא לכך הרכבת

drove 500 miles a week, it would, on average, take him more than 2,800 years before he would be killed in a car accident, which appears to be more than "once in a thousand years". However, *Chasam Sofer* actually means to say that not even once in a thousand years does anyone on Earth give all appearances of being dead, and then actually turn out to be alive. Accordingly, the appropriate statistic to compare to *Chasam Sofer* is that in 2006 there were ¹¹ a total of 42,642 driving related fatalities in the USA, which means that more than 115 people were killed each day – which of course doesn't qualify for the literal words of *Chasam Sofer*. However, as noted in the coming text, *Chasam Sofer* is clearly overstating the cutoff level at which the *safeik sakanah* is considered too common.

⁸ A possible exception to this rule would be addictive foods or practices (e.g. nicotine, narcotics, caffeine) where one incident may not be dangerous per se, but it might still be forbidden because of the tendency of people to become addicted to the point that they will be unable to prevent themselves from stopping.

⁹ *Gemara, Shabbos 192b, Yevamos 12b, Avodah Zara 30b* and elsewhere.

¹⁰ See *Journal of Halacha and Contemporary Society* XXXIII pages 57-70 for an article by this author on this topic.

¹¹ *Minchas Shlomo* II:37.

³ *Shulchan Aruch* Y.D. 294:9.

⁴ *Ibid*.

⁵ There are a number of opinions as to how common *arlah* has to be regarding a specific type of fruit tree for it to be considered a "*safeik arlah*", and that issue, along with the practical information as to which fruits reach this threshold, are best answered by Israeli Rabbis who deal with this question day to day.

⁶ <http://www.fars.nhtsa.dot.gov/Main/index.aspx>.

⁷ *Responsa Chasam Sofer* Y.D. 338. His words are:

אבל האמת יורה דרום כי זהו מקרה בעלמא ממקרים הרחוקים א' לאלף שנים שיקום אחרי נפלו וביטול נשיתו וימסור לבקאים ואפילו מינוטא דמינוטא לא היו כמו חוי המעגל שישן שבעים שנה... ואינו נכנס בגדר חוששי' למיעוט פקוח נפש. At first glance, one might think that the driving example given in the previous text qualifies for the literal words of *Chasam Sofer* because even if a person

[זריקת] אבעבועות לילדים, אע"ג דמצד הדין אפשר שצריכים באמת להזדרז ולעשותו בהקדם האפשרי אם הרופא אומר שכבר הגיע הזמן לעשותו, אך אעפ"כ אין רגילין כלל לעשותו בבהילות ובזריזות, ולפיכך אף אם באמת יש בזה קצת סכנה הו"ל כמ"ש חז"ל והאידיא שומר פתאים ד' וחלילה לחלל שבת עבור כך, משא"כ אם אחד נמצא במקום כזה שידוע ברור שאם לא ירכיב עכשיו את האבעבועות בשבת יצטרך לחכות ד' או ה' שנים, כיון דבזמן מרובה כזה ודאי נבהלים ומפחדים לשהות, אפשר דשפיר חשיב כפקוח נפש ודחה שבת.

Tzitz Eliezer¹² adds two other factors to consider:

4. Binyan Zion¹³ says that the stringency associated with *sakanah* only applies if the person is already ill or in some other situation which might lead to death, but doesn't restrict a person from entering a situation where *sakanah* may develop in the future.
5. Shem Aryeh¹⁴ understands that one may do those things which are required for "normal living" and need not be concerned with the *sakanah* aspect. It is noteworthy that within this opinion, Tzitz Eliezer cites a disagreement as to whether it is limited to people entering the situation for business purposes or if it applies to all people.¹⁵

Summary

There are many experiences in life which carry with them a certain element of risk but are permitted according to Halacha. Using the example of food, we determine whether a specific food is "safe" based on a number of factors – what the chances are that consuming the food will lead to danger, how much of the food must be consumed before reaching the dangerous level, and whether consumption of such foods is considered safe by the average consumer. Clearly the answer to this question will be different depending on

how much of the given food the person is considering eating, and on what is considered safe in the locale and times that the person lives in.



Acid Casein

In *Sappirim 5* we saw that there are two basic methods to remove protein from milk so as to create cheese. Those two methods, rennet and acid, can also be used to remove just the casein protein (without the whey protein and without forming a cheese) to create rennet casein or acid casein.

As would be expected, rennet casein is generally considered to have the status of cheese which requires *gevinas Yisroel*, and can therefore only be produced with a *Mashgiach temidi*. On the other hand, acid casein is treated similar to acid-set cheese, which doesn't require *gevinas Yisroel*.

As with other dairy product, one must ascertain that the acid casein isn't *chalav akum*. Most *hashgachos* don't consider this a concern if the casein comes from a developed county, because there are enough government controls to satisfy *Iggeros Moshe's* requirements for what is known as "*chalav stam*".

Although we've seen that the issues of *gevinas Yisroel* and *chalav stam* don't pose a concern, and the ingredients used in acid casein are typically innocuous, acid casein is still not a Group 1. This is because acid casein is commonly coagulated at above *yad soledes bo* and dried in equipment that is also used for rennet casein (i.e. *gevinas akum*) and/or other non-kosher foods.

The finished acid casein isn't very soluble, and therefore it is typically reacted with a base such as sodium hydroxide to create a salt. That is why acid casein is usually sold as sodium caseinate, calcium caseinate or a similar compound. It is worth noting that although it is clear to us that acid casein is *milchig*, the American government made a political decision that it shouldn't be considered dairy. American companies must therefore label creamer that contains acid casein (and no other dairy) as being non-dairy, but consumers and *hashgachos* have to be vigilant that such items are rightfully marked "Kosher Dairy".

INGREDIENTS

¹² Tzitz Eliezer XV:37; many of the same points are made by *Shemiras Shabbos K'hilchaso* Chapter 32 footnote 2 (who cites additional sources).

¹³ Binyan Zion 137 (but see *Achiezer* I:23). The relevant words in the *teshuvah* are:

...דאע"ג דכלל בידני דאין לך דבר עומד בפני פקוח נפש ואין הולכין בפקוח נפש אחר הרוב זה דוקא ביש ודאי סכנת נפש לפנינו כגון בפני עלי הגל דאז חוששין אפילו למיעוט דמיעוט אבל בשעתה אין כאן פקוח נפש רק שיש לחוש לסכנה הבאה בזה אילולין בתר רבא כמו לענין איסורא דא"כ אך מותר לירד לים ולצאת למדבר שהם מהדרים שצריכין להודות על שנפלו ואין מותר לכתולה לננס לסכנה ולעבור על נשמתם מאד ולנפשותיהם אע"כ כיון דבאותה שעה שהולך עדיין ליכא סכנה הולכין אחר הרוב.

¹⁴ Shem Aryeh Y.D. 27. The relevant words in the *teshuvah* are:

ודע דאף בדברים שיש בהם סכנה מכל מקום דבר שחוא מנהגו של עולם ודרך הכרח אין לחוש, דהרי ארבעה צריכים להודות, ובי מהם הולכי מדברות והולכי ימים, הרי דאיכא בהם סכנה, ומכל מקום מותר לפרוש בספינה ולילך במדבר וכו', אלא ודאי דבדברים כאלו אשר הם לצורך העולם אין איסור כלל וכו', וכן בכל דבר שהוא לצורך העולם כמו לדודת למלחמה דהוי ודאי סכנה שרי ואין בהלחמת הרשות, וכן אין איסור לחזקת לבנה אע"ג דהלילה הוי סכנה אע"ג דאשה אינה מנהג בפריה ורביה וכן אפילו אם יש לה כמה בנים, דכל זה הוא דרבו ומנהגו של עולם לכן אין איסור וחשש משום סכנה וכו', אבל מה שהוא מנהגו של עולם אין לחוש לסכנה.

¹⁵ Tzitz Eliezer cites *Mabit* (II:216) as permitting people to travel on roads where there is "normal" danger even for non-business purposes, as follows:

...לעולם כל הדרכים הם בחזקת סכנה וצריכים להודות לאל יתברך, כמו הולכי מדבריות, ואינו מעבד את הכפיה לעלות אלא באותה הימים שיש סכנה ידועה בדרכים, אבל שכלל הסוחרים אינם נמנעים מללכת בדרכים גם איש ואשתו ימליץ לכוף זה את זה.

On the other hand, he cites *Nodah B'Yehudah* (Y.D. 10) as permitting the dangers of hunting only to those who do so for their livelihood, as follows:

...מי שהוא עני ועושה זו למחייתו לזה התורה התירה כמו כל סוחר ימים מעבר לים של מל שהוא לצורך מחייתו ופרכסתו אין בריהו והתורה אמרה ואילו הוא נושא את נפשו ואמרו רז"ל מפי מה זה עלה בכבש ונתלה באילן ומסר עצמו למיתה לא על שכרו כו', אבל מי שאין עיקר כוונתו למחייתו ומתאוות לבו הוא הולך אל מקום גדודי חיות ומכניס עצמו בסכנה הרי זה עובר על נשמתם מאד כו'.

Steam Traps

Steam traps?! What are steam traps, and what in the world do they have to do with *kashrus*? This humble, crucial workhorse of every kettle and other piece of equipment which is heated by indirect steam, is surprisingly very helpful to a *Mashgiach* investigating the steam system in a mixed plant (i.e. one that produces kosher & non-kosher or pareve & dairy).

When one heats water to the proper temperature it changes into steam, and when the steam hits (the outside of) a kettle and transfers some of its energy, the steam changes back into water, which we refer to as “condensate”. Typically, plants “recover” this condensate and pump it back to the boiler, where it is reheated and converted into steam once again. In the case of a mixed plant, the return of non-kosher or dairy condensate will potentially ruin the kosher pareve status of the rest of the plant’s steam. This leads to several questions for a *Mashgiach*, including:

- How does he know if a kettle is heated with steam (instead of hot water)?
- If he knows it’s heated with steam, how does he know whether the condensate is returned to the boiler?
- If it is being returned to the boiler, where should the plant install a valve so they can drain the condensate when necessary?

An important step in answering these crucial questions is to know what a steam trap does and what one looks like (and, thankfully, there’s no need to know how each type of trap actually works).

Simply put, a steam trap is a mechanical control which keeps the steam near the kettle, and only lets condensate pass through into the condensate return lines.

The traps are usually located very close to the kettle – within a foot or two from the bottom – and are attached to the pipes in a way that makes them pretty easy to notice. The picture shown below¹⁶ gives a collage of a number of common steam traps (not attached to pipes), and after poking around a bit and asking for help

from the maintenance people at a few plants, any *Mashgiach* can learn to easily identify the steam trap on almost every steam kettle.



Let’s return to the questions listed above.

- Once the *Mashgiach* has learned to identify a steam trap, he can easily tell if a kettle is steam-heated (which will have a trap) or water-heated (which won’t).
- If the plant is draining their condensate, an open pipe through which the condensate drains should be within a few feet of the trap. If the piping after the trap seems to go on further and/or goes “into the ground” there’s good reason to believe the condensate is being pumped back to the boiler.¹⁷
- Lastly, any valve installed to allow for the draining of condensate must be past the trap; if it is located between the kettle and the trap it can’t possibly be used during production, as all the steam would flow out of the valve instead of the condensate!¹⁸

So, we’ve seen that just as steam traps play an important role in a steam system, they can play an equally important role in the *hashgachah* of a mixed plant that contains a steam system.

¹⁷ Another thing to look for is a pump located just after the trap, which is used to push the condensate back to the boiler, and would never be used if the condensate is dumped. However, beware that some condensate return systems function without any pumping.

¹⁸ While this may seem apparent, the following anecdote shows that it’s sometimes worthwhile to repeat the obvious: For 2 years a plant told it’s *Mashgiach* that they drained their condensate whenever they produced non-kosher products. [Not only was there no way to verify this claim, but] when another *Mashgiach* visited the plant he was surprised to see that the drain valve was between the kettle and the trap. This meant that if the valve was ever open during a production, all of the steam would escape and no cooking could get done, such that it is absolutely impossible for them to have been draining condensate during any production! [When presented with the evidence, the operator admitted that he opened the drain valve after every non-kosher production]. Had the original *Mashgiach* known the fact mentioned in the text, he would have caught the mistake on his first visit.

¹⁶ The montage was given to the cRc by Spirax Sarco (www.spiraxsarco.com) and is reprinted with permission.