



CHICAGO RABBINICAL CURRENTS

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אלול תשפ"ד



Keeping Up with the Times KOSHER BEER

by Rabbi Akiva Niehaus

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Alcoholic beverages have been produced almost since the beginning of time. Wine was likely the first alcoholic beverage but many ancient civilizations regularly brewed beer. Since beer uses simple ingredients and is fairly simple to produce, it has led to a proliferation of breweries and varieties, largely available in most inhabited locations of the planet. In fact, many people simply brew beer in their homes for a hobby. Over the millennia, methods of production may have improved, but the ingredients and general production methods haven't changed.

Recently, however, there has been an upheaval in the beer industry, with heavy experimentation and new protocols, all of which may have important implications for the kashrus of beer.

Background

For many years, beer manufacturers have used simple production methods and standard ingredients, presenting minimal kashrus issues. However, over the past two decades, a new type of brewery has emerged, the craft brewery. These breweries view brewing as a craft, an art, produce small batches, and have limited production volumes. Some breweries, known as microbreweries, are small enough that they can even produce commercial beer in their garage. Due to their limited production and smaller size, they have the flexibility to produce creative beers, experimenting with different flavors and ingredients. Many breweries, wishing to carve themselves a niche in the crowded beer market, produce flavored and exotic beers, with some flavors bordering on the incredible.

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CHILDCARE IN HALACHA



by Rabbi Yisroel Langer

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It is common practice in today's world to leave small children with babysitting groups, playgroups, backyard camps and the like. This setup often leads to a host of *Choshen Mishpat shailos*. For example, if after verbally agreeing to send one's child to one playgroup, can one then switch to another playgroup that just opened if it is cheaper or more convenient? If a backyard camp doesn't get an enrollment that makes it worthwhile for the counselor to run a camp, is she permitted to just cancel the camp? If one receives a new job offer in the middle of the school year that causes their family to relocate to another city, are there any financial responsibilities to the daycare that their child was enrolled in? Sometimes these situations can become complex, and the parties must present their case before a Bais Din.

Background

When one enrolls their child in a playgroup or camp, essentially an employment agreement is being created. Before discussing specific questions that arise in childcare settings, let us outline some of the basic *halachos* of employment agreements as stated *Shulchan Aruch* (C.M. *Simanim* 333-334).

When one verbally¹ commits to do work for someone else but has not yet begun doing any of the work, assuming that there is no loss (see below) for the worker or the one hiring him, either side may back out without any financial obligations to the other party. However, the *halacha* allows
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1. If the agreement was written in the form of a legal contract, or was verbal but accompanied by a *kinyan sudar, situmta*, or a payment for the job is made in advance, the employer and the worker (if he is a *kablan*) would not be entitled to back out unless there is an *ones* or if the worker could easily find another similar job that is of equal pay (C.M. 333 *Shach* s.k.4, and *Pischei Teshuva* s.k.2, see also *Pischei Choshen Hilchos Sechiros* Ch. 10 hal. 7).

2. C.M. 333:1. See *Ketzos* (*ibid* s.k. 1) who rules that if one backs out for a very legitimate reason, even when it's not an *ones*, the hurt party has no rights to *Tarumos*.

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Keeping Up with the Times **KOSHER BEER**

Did you hear about the brewery in Boston which puts pepperoni pizza pies in their brew? Oyster beers, containing real oysters added to the brew kettle, allegedly adding a briny, salty flavor, are quite common. While these beers are obviously not kosher, their production can create tremendous concerns for standard beer produced on the same equipment. How does this have an impact on the kosher consumer?

Production Process

As with any food and beverage product, in order to determine the kashrus status of beer, it is necessary to gain a good understanding of the production process.

First, malted barley (and occasionally other grains) is crushed and steeped in warm water (around 150°F) for 60-90 minutes, causing the starch to convert into sugar. The sugary water is then drained and boiled in a brew kettle (at 212°F) for around 90 minutes, at which point hops (the flower of the hop vine that adds the characteristic bitter flavor) are added. The liquid is then drained, cooled to around 60°F, and put into fermentation tanks. Yeast is added to the mixture, and the fermentation begins, converting the sugar into alcohol. This process may take anywhere from a few days to many weeks. The product is then filtered (see sidebar regarding the usage of **isinglass**) and aged for some time. The beer may be artificially or naturally carbonated. If spices and flavorings are

used, they may be added directly to the brew kettle, the fermenters, or prior to bottling. The final product may be bottled, canned, or served in kegs. Some companies pasteurize the finished product with heat, often in a tunnel pasteurizer.

Ingredients

The most important step to determine the kashrus of beer is by looking at two issues: ingredients and equipment. Historically, beer generally contains only four ingredients: water, barley (or another grain), hops, and yeast. In fact, these ingredients follow tradition from the early 1500's (see sidebar regarding the **Bavarian Purity Law of 1516 – the Reinheitsgebot**). All of these ingredients present minimal kashrus concerns. [Note: All alcoholic beverages likely contain added enzymes and finishing agents to help with production, but these are assumed to be minimal and nullified (*batul*) in the final product. Nevertheless, prior to home-brewing, one must ascertain that all ingredients – including the yeast – are acceptable.]

The real challenge comes from the modern-day trend of adding flavorings to beer, including interesting and strange ingredients. As explained, recent innovations include oyster, clam, and lobster beer – all of which are obviously non-kosher. Other ingredients, such as spices and botanicals, seem to be less problematic, but once a company adds such ingredients, one never knows what else they may be adding.

The same is true with fruit beer – such as lemon beer; the company may be using fresh fruit, but some companies supplement the fruit with chemical flavorings and extracts which require a reliable *hechsher*. (According to U.S. Federal Law, beer with flavorings must list the flavorings on the label; hence, any beer label which doesn't mention the presence of flavors can be assumed to be unflavored.)

Equipment

Even if one avoids the highly problematic flavored beer, the main concern with beer may be the production equipment. Many companies use the same equipment to produce numerous products. If a company produces unflavored beer on the same equipment as non-kosher beer, the shared equipment may cause all beer produced to be non-kosher. This concern exists with many different points of the production process. As explained above, beer is produced in both hot and cold stages. During production, the barley is heated with warm water, boiled in a kettle, and it may be pasteurized with heat. In addition, beer rests in the fermenter for many days. Although it is cold at that point, and cold non-kosher food generally doesn't affect equipment, it may affect the equipment after resting there for 24 hours (referred to as *kavush*). Non-kosher ingredients introduced at any of the above stages may affect the kashrus of the equipment.

Further, even if the production lines are

Isinglass

Beer is often cloudy/hazy and needs to be cleared up. To do so, brewers have historically used a fining (clarifying) agent made from isinglass, the swim bladder of the non-kosher sturgeon fish. Does this affect the kashrus status of the beer? This question was discussed many centuries ago by Rav Yechezkel Landau, Chief Rabbi of Prague (see *Shu"t Noda B'Yehudah, Mahadura Kama, Y.D. siman 26*). In short, since the volume of swim bladder in the beer is quite minimal and there's no intent for flavor, there is minimal concern. Nevertheless, mainstream kashrus agencies avoid usage of this product and use alternative methods of clarification.

The Bavarian Purity Law of 1516 – the Reinheitsgebot

In the year 1516, Bavarian Duke Wilhelm IV (a.k.a. William IV) instituted a set of decrees, likely the first consumer protection laws, commonly referred to as the Bavarian (German) Purity Law of 1516 – the Reinheitsgebot. He decreed that the only ingredients used for the brewing of beer must be water, barley, and hops. The astute reader will notice that yeast was not on the list, mainly due to the fact that Louis Pasteur only discovered the effect of yeast hundreds of years later, in 1857. How did they ferment beer without yeast? Early brewers managed to add yeast without realizing it: Beer was often brewed outdoors in open vats and some airborne yeast made its way to the open vat. Once they got a good batch of beer, they took some leftovers and used it for the new batch (referred to as brewer's yeast). Sometime later, yeast was added to the approved ingredient list. In 1906, Reinheitsgebot became the law of the land in Germany. This practice continued until 1987 when the European Court of Justice (ECJ) struck down the law based on complaints from foreign competitors that the German law was a restraint to fair trade. However, many breweries, both in Germany and abroad, wishing to impart the "natural" image, claim to adhere to the original laws. Even if the ingredients are truly kosher, one must still verify that the production equipment is also kosher, such as if the entire brewery is Reinheitsgebot.

segregated, we have seen cases where the steam lines which provide heating capabilities are shared amongst the entire plant, thereby causing all production lines to be affected.

It's important to note that the standard cleaning protocol in many breweries ("CIP") is generally not hot enough to be considered a valid *kashering*.

In short, the equipment status in a brewery which produces both flavored and unflavored beer is highly questionable; only a brewery under *hashgacha* or which exclusively produces unflavored beer is free of such concerns.

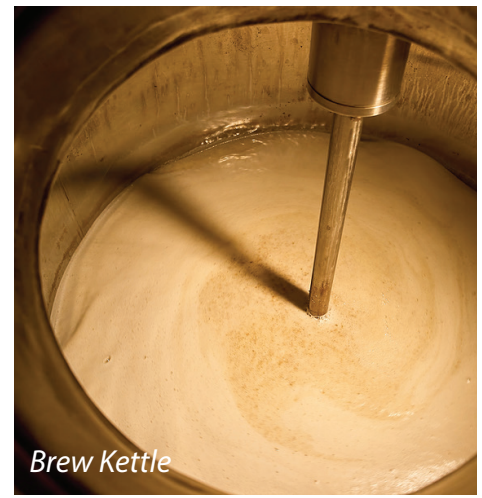
Other Concerns

Cooked food products are generally subject to the issue of *bishul akum*. Beer is not subject to this concern; the reason for this is beyond the scope of this article (see *Tosfos, Avodah Zara 31b*).

Another concern relates to Jewish ownership. Jewish-owned breweries must arrange a sale before Pesach to ensure non-Jewish ownership over Pesach; beer which was produced or owned over Pesach presents issues of *chametz she-avar alav haPesach*.

Large vs. Small Companies

It should be noted that the above concerns apply by and large to smaller breweries. Large national and international breweries are less prone to experimentation, staying with their



tried-and-true products. Small breweries, on the other hand, focus heavily on new product development and experiment heavily with interesting and strange products. The stability of the large companies gives some level of confidence to the consumer that they are likely not experimenting with sensitive ingredients, and likely have segregated production lines dedicated to their standard products.

Summary

The basic beer ingredients (grain, water, hops, and yeast) are all assumed to present minimal *kashrus* concerns. However, in recent times, beer production has become more complicated. It is becoming quite common for breweries to make non-kosher beers, such as oyster stout, and questionable brews, such as spiced or fruit beers. Aside from these beers being forbidden or questionable to drink, they can also make the entire production line non-kosher, affecting even standard, unflavored beer produced on the same lines. In large national and international breweries, the concern is

somewhat minimized.

What Changed

These changes in the beer industry have been ongoing for the last two decades. Experimentation with flavorings and strange ingredients has been ongoing. If so, why is there more of a concern now? The answer is that two things have changed:

1. The increased prevalence of non-kosher or questionable beers: We are seeing more and more non-kosher beers in the market, potentially affecting the regular, standard beer with shared equipment. Further, the usage of lactose, or milk sugar, has become very prevalent. **Lactose** adds sweetness and other qualities; see sidebar. Lactose is a dairy ingredient which requires a reliable hechsher. The amount used in beer can be as high as 5% by volume, which is significant enough to not be nullified. Since beer is governed by the TTB (Alcohol and Tobacco Tax and Trade Bureau) and not the FDA (Food and Drug Administration), there is no obligation to disclose allergen

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Lactose

What is lactose and why would it be used in beer?

Lactose is a sugar, also known as milk sugar, that's found in milk and other dairy products. It is a white, water-soluble solid with a slightly sweet taste that makes up about 2–8% of milk by mass.

Lactose adds sweetness, particularly to such beers as chocolate stouts, pale ales and cream ales, and mouthfeel, making beer creamier and fuller bodied. Since the lactose is not fully converted to alcohol during the brewing process, some remains in the final product.

CHILDCARE IN HALACHA

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the hurt party to have grievances against the party that backed out; this is known as *tarumos*. The Shach² explains the reason for this allowance is that even when there are no losses involved, there will still be some hardships for the employer in finding a new worker, or for the worker to have to find a new job. If there are no hardships involved, such as the worker himself finds a suitable replacement for his employer, then there would not be any *tarumos*. When one party backs out, it would be appropriate to appease the hurt party, even with monetary compensation, if necessary, to avoid any hard feelings and grievances. In addition, one who backs out from their commitment to work, could be considered a *mechusar amana* – lacks faithfulness (a term used by Chazal that refers to people who don't keep their word).³

If the employer chooses to back out after the employee has already started to work, or even just arrived at the worksite, then the worker must still be paid. However, it is not necessary to pay the worker in full, rather his wages are reduced by how much money a worker would be willing to forfeit to stay home. This is referred to as the wages of a *poel batel*. The amount that is deducted would depend on the nature of the work.⁴ If the employer backing out of the deal causes a financial loss to the worker, as the worker would have taken another job had he not been hired out by this employer, and now can no longer find a suitable job, the employer must also pay him like a *poel batel*. This is true even if the worker didn't start any work. However, if the employer is an *oness*, such that for reasons out of his control he needs to back out of the deal, then he is not liable to his worker. For example,

if one hires a band to play at a child's wedding, and at the last minute the wedding is called off, the father would not be required to pay the band even though the musicians incurred a loss as they can't find another wedding to play for at the last minute.⁵

An employee who verbally agreed to do work and would like to back out in the middle of the job may do so. This is based on the *possuk* "Ki Li Bnei Yisroel Avadim"– The Jewish people are servants of Hashem not to human beings. If an employee would not be able to back out, he would be on some level like a servant. However, if the employer incurs a loss if his worker backs out, and this loss would not have happened had he not agreed to do the job (i.e. there were

other workers that could have been hired) then the worker would not be able to back out. For example, if a teacher wants to stop teaching in the middle of the school year as her husband received a nice raise in his salary and she therefore no longer needs the extra income, she may not do so if the school would not be able to find a suitable replacement mid-year. If, however, the employee is an *oness*, and is not able to go to work for reasons beyond his control then he would not be held liable. In addition, an employee is only allowed to quit mid-job if the reason he is quitting is because he prefers not to work. However, if he quits a job as he found out that he could get paid more elsewhere, he would not be entitled to stop his work.

3. If a better deal comes up that wasn't available at the time of the verbal agreement, it may not be considered *mechusar amana* to back out (see C.M. end of *siman* 204 and *Shach* 333:1).

4. See *Taz* (C.M. 333:1) who quotes a *teshuva* from Rashi and Rabbeinu Chananel that state a *poel batel* gets paid half their regular wages. However, the *poskim* say that this will fluctuate depending on the nature of the job. While a worker whose line of work involves strenuous labor may agree to take a day off for half pay, someone with an office job would demand more (see *Mishpatei Haleivi* V. 4 *siman* 9 p. 158 and *Mishpat Hapoalim* Ch.3 note 13). See also *Kovetz Hayashar V'hatur* (v. 4 p. 38) in which Harav Sarel Rosenberg *sh"lita* distinguishes between a worker who gets a monthly salary who is less likely to forego much reduction on their salary to stay home versus someone like an electrician or plumber who gets paid for individual jobs. There are some workers, such as a rebbi, who wouldn't agree to have any deduction on their salary as they prefer to work rather than stay home (C.M. 334:4).

5. There is a discussion in the *poskim* if a deposit that was made would be refundable, see *Sefer Ganei Yeladim B'halacha* in the *miluim*, *siman* 2 page 134.

CHILDCARE CONTRACT

I am hereby registering my child, in

_____ for the duration of _____, I understand that with this registration I am obligating myself to hire _____ and pay her the tuition of this entire term, even if my child withdraws from the group, unless an unforeseen and unfortunate circumstance makes it unfeasible for my child to attend the group or I find her a replacement with whom she is satisfied. This obligation applies even if my child cancels before the start of the school year unless it is certain that his enrollment did not prevent other children from being enrolled in the group.

X _____ Date: _____

Name: _____

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The above document is a sample childcare contract form.



Q I verbally signed up my two-year-old daughter with a playgroup in January for the next school year which begins in the following September. In mid-August a new playgroup opened which has longer hours and is cheaper than the one I originally signed up with, can I back out of my agreement with the first playgroup?

A When one commits to send their child to a playgroup, the parent is the employer, and the playgroup *morah* is the employee. As mentioned above, if an employer would be causing a loss to their employee by backing out of their agreement, he would be obligated to pay the employee like a *poel batal*, if the worker cannot find another suitable job with the same pay. Accordingly, if the *morah* has a limit to the number of children that she takes, and by you signing up with this playgroup, the *morah* had sent other potential clients away that by now already made other arrangements for the school year, you would be held liable to pay the *morah* like a *poel batal* until the *morah* is able to fill that slot. In other words, you would have to pay the *morah* the full amount of tuition for the year minus the amount of money the *morah* would be willing to forego to have one less child in her group. In this situation the amount of money subtracted could be minimal as the work involved in taking care of one more child isn't that much. If the *morah* didn't fill up all her slots and therefore didn't turn anybody away after you agreed to take a slot, there would be no financial obligation to pay as the daycare didn't begin yet, and there was no *kinyan* or written contract made. However, the *morah* does have a right to *tarumos* against you, and therefore you should try to avoid backing out. If you do back out, every effort should be made to appease the *morah*. See note 3 (page 4) as to whether this would constitute being considered a *mechusar amana*.

Q After taking the last slot in a backyard camp, my son unfortunately broke his foot on a trampoline after just one week into camp. My son no longer has any interest in attending the camp as he can't participate in any of the activities. Am I still responsible to pay for the remainder of the summer, as other children were turned away based on my acceptance of that slot?

A When an employer backs out of a deal that causes a financial loss to a worker, the employer has a financial responsibility to pay the worker like a *poel batal*. However, in this situation, being that you, the parents, are an *oness*, as reasons beyond your control are preventing your child from being able to attend camp, you would have no obligation to pay.

Q As an experienced playgroup *morah* for many years, I always have all my slots filled up by Purim of the preceding school year. This year I have been having an extraordinarily difficult time running my group as one of the boys under my care is very wild. Aside from not following instructions, he bites and hits other children in the group. Would I be allowed to tell his parents that they may no longer send him to the playgroup? If I can't find someone else to fill this slot, would I be entitled to get paid the remainder of the tuition for the year since I turned away several children as I was full?

A A worker is not permitted to leave in the middle of a job if leaving will result in a loss to his employer. If there is no loss involved, then the employer could still have *tarumos* on his worker. Accordingly, a *morah* would not be allowed to dismiss a child without good reason if it will be difficult to find a new group for the child. However, in this situation the child is causing extreme difficulty for you to properly run this group, and this child is a danger to the other children in the group, so you would therefore be allowed to dismiss this child from your group. If the parents of this child were aware of their son's behavior and knew beforehand that their child would likely present difficulties and did not inform you of this, they would have to pay you like a *poel batal* for the remainder of the school year or until you find someone to fill the slot.

Q My three-year-old daughter, who is a well-behaved girl, was excited to attend a backyard camp that was located right down the block from me. One week into camp my daughter showed up at my front door when it was swimming time in camp. Apparently, she was not interested in swimming, so she just left camp on her own without telling anyone. After spending some time at home, I took her back to camp and spent a few minutes watching the two high school girls supervising seventeen small children. The scene looked a bit chaotic, and although I committed to sending my child to this camp for four weeks, I no longer felt comfortable sending my precious child to this camp. Am I entitled to back out of my commitment without having to pay the remainder of the tuition for the summer?

A If a *morah* is neglecting a child, not doing her job properly, or is simply unfit for the job, a parent would be allowed to back out of a commitment made without any *halachik* consequences as this would be deemed a breach of contract.¹ If, however, the *morah* is basically doing her job, just not to the perfection that you demand, you would not necessarily be allowed to break your commitment. In this situation, there was no proper care being taken, as your child left camp without being noticed. In addition, the *morahs* did not seem to be able to properly cope with this size group. Accordingly, you would be able to back out of your commitment. As a word of caution, it is not always readily obvious if there is a breach in contract, and the matter should be brought before a Bais Din or Rav to ascertain whether there are grounds for backing out without *halachik* consequences.

Q In the middle of December, my husband, who was a rebbe in the local day school, was unexpectedly offered a job as a principal in a different city beginning after winter break. The day school was able to find another rebbe to replace my husband, but the playgroup with whom I signed up my daughter with was not able to fill her slot. Do I owe the balance of the tuition for the remainder of the year?

A The halacha is that an employer could only dismiss a worker in the middle of a job if he is an *oness*, as he needs to back out of a deal for reasons that are out of his control. The *poskim* debate whether leaving a city for a better job is considered an *oness*. On the one hand, when living in a different city it isn't feasible to transport one's child daily to this playgroup that is six hours away. This would certainly seem like an *oness*. Others argue that one was never forced to move to a different city and therefore this situation should not be treated as an *oness*.² It would seem that if you have not yet paid the full tuition, you would not have to pay the balance because of the principle of... המציא מחבירו עליו.



COMMON HALACHIK CHILDCARE QUESTIONS

1. C.M. 333:5 Sometimes a warning is necessary before the employer wants to back out - see *Pischei Choshen Sechivos Ch. 10:9* and *ho'aras 26*. 2. See sefer *Ganei Yeladim B'Halacha* p. 58 note 48 who quotes various opinions on this matter.

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Keeping Up with the Times KOSHER BEER

information on beer and liquor products. More importantly, since lactose is a sugar (milk sugar) – not a protein – it is classified as an intolerance and not an allergen. Accordingly, the usage of lactose in beer is generally not disclosed on the label, so the beer which one drinks by a Shalom Zachar after a fleishig seudah may in fact be dairy – or even non-kosher – and one would never know about it!

2. The availability of kosher-certified beers on the market: The number of certified options has exploded. Just 10 years ago, the cRc Liquor List had around 250 certified options – today it has over 750! Three times as many options in just 10 years.

These two factors push us in one direction – encouraging kosher-certified options.

Updated Recommendation

Based on the above, the cRc – working with other kashrus agencies around the world – has modified our recommendation for beer. Due to the complexities of modern beer production, including shared production lines with non-kosher beer and the prevalence of lactose beers, the cRc strongly recommends to only consume beer with a reliable hechsher. The popular cRc Liquor List currently has over 750 certified beers.

If certified beer is not available, the following recommendations apply: Standard unflavored beers with no additives are acceptable, even without Kosher certification. This applies to beers which are domestic or imported, light or dark, and even non-alcoholic beers. Unflavored beers produced by large national and international breweries generally have less kashrus concerns. Beers from home and pub breweries, breweries which produce non-kosher beers, Jewish-owned breweries, beers from Israel,



milk stouts, beers that contain lactose, and flavored beers (which include those flavored with spices, botanicals, fruits, or anything else) – all of these are only acceptable with a reliable *hechsher*.

Will the above recommendation change and require that all beer have a reliable hechsher? Perhaps, one day. If the situation continues to deteriorate and reaches a point where even unflavored beer is likely non-kosher due to ingredients and equipment concerns, absolutely, a reliable hechsher will be required for beer. However, thankfully, at this point, the concern is not that great, and we are only strongly recommending that beer should have a reliable hechsher, but time will tell. We're continuing to closely monitor the situation together with other kashrus agencies.

Conclusion

In conclusion, times have changed. Beer has gotten increasingly complex over time. What was once simple – with simple ingredients and production methods – has now gotten more complicated. With many hundreds of beers currently under *hashgacha*, finding certified options has become increasingly easier. Purchasing beer with a reliable *hechsher* will remove any and all concerns. To help consumers find certified beer options at cRc certified events, the cRc has started a **new initiative**; see sidebar.

New Initiative

In our quest to continually upgrade the level of kashrus in our community, the cRc is proud to announce a new initiative. Due to the fact that the kashrus of beer has become more of a concern, the cRc will soon require that if beer is served at a cRc-certified event, there should be at least one beer with a reliable hechsher. To raise awareness and to help consumers better identify the kosher-certified options, the cRc has designed a special decal (see sample below) to be displayed by these events. The Mashgiach on site will fill in the relevant details, including the name of the certified beers. Look out for the decal and let us know what you think!



Chicago Rabbinical Currents is a monthly community newsletter of the Chicago Rabbinical Council (cRc), featuring articles by the staff of the cRc Beth Din and of cRc Kosher.

We value proactive community engagement, education and partnership, and Chicago Rabbinical Currents articles address aspects of practical halacha that are applicable to all.

Rabbi Yosef Posner, *President*

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