



## **FINDING CHAMETZ ON PESACH**

“**R**abbi, help! I found chametz on Pesach. What should I do?”

This question arises surprisingly frequently considering the great diligence most employ in their homes when preparing for Pesach. The truth is that after further inquiry, the items discovered are often not your classic chametz items. Frequently they are medications that do not appear on one of the “approved for Pesach” lists or various toiletries that contain oatmeal or other chametz ingredients.

What, in fact, is the halachic status of those items, and if they are chametz what should be done with them in light of the prevalent practice of selling chametz before Pesach?

A brief overview of the different types of chametz will help clarify the status of these items when discovered on Pesach.

Chametz is the result of any one of the five grains that come in contact with water and are left to leaven for more than 18 minutes prior to being baked. There are other factors such as heat, leaving the dough without being worked, and liquids mixed with the grain that can speed up or change the leavening process.<sup>1</sup>

However, there are times when the chametz mixture is not fit for human consumption. This type of chametz, *chametz nuksha*,<sup>2</sup> is not forbidden biblically to own or to see in one’s possession over Pesach, and the

requirement to destroy it prior to Pesach is only *mederabanan* (M”B 442:2).<sup>3</sup> If the chametz is not even fit for canine consumption — it is completely inedible — then it has no halachic status as chametz and there is not even an obligation *mederabanan* to destroy it prior to Pesach (Sh”A 442:2).

This, then, is the basis of allowing all medications, soaps, creams, shampoos, deodorants and other toiletries to be used on Pesach even if they contain chametz ingredients. None of the chametz is fit for consumption, it is completely inedible and therefore does not have the status of chametz at all.

So why the lists?

The main concern stems from the opinion of the Rosh (*Pesachim* 1:2), codified in the *Mishna Berura* 442:43, that when one eats chametz that has been rendered inedible he has, by the very act of eating, given significance (*achshevei*) to the inedible as food and it is therefore once again considered chametz, even though for others it would not have the status of chametz. Thus, it would seem that in particular, when it comes to medications that are consumed orally, even if the chametz has been rendered inedible, the act of eating it should be problematic according to this opinion of the Rosh.

However, many *poskim*, including Rav Moshe Feinstein (*Igros Moshe Orach Chaim* 2:92), do not think that this opinion of the Rosh would apply to a case such as medicine where often times people must eat bitter or otherwise disgusting items for their health, even if they would not otherwise eat them. Therefore, Rav Moshe says that medications with inedible chametz ingredients would not be problematic on Pesach even according to the Rosh.<sup>4</sup>

In a similar vein, Rav Moshe writes that the logic of *achshevei* would not be relevant to other types of benefit from the chametz such as washing or anointing, and therefore toiletries containing chametz would not be a chametz concern.<sup>5</sup>

However, Rav Aryeh Leib Gunzberg writes in his *Sha'agas Aryeh* (75) that it seems that chametz foods and drinks that are not fit for consumption are not permitted even for medicinal purposes. In his opinion, "*achshevei*" still applies, even though these products are not even fit for canine consumption and are like "the dust of the earth." As such, it is prohibited to

ingest them. **It is important to note that one should not discontinue use of liquid, chewable or any other medicine without consulting with one's doctor and rabbi.**

One specific area that may be different relates to cosmetics containing alcohol. There are different types of alcohol, and while isopropyl alcohol comes from petroleum, ethyl alcohol is made from the fermentation of starch, sugar, and other carbohydrates. Ethyl alcohol can be produced from grains, which would render it chametz. As a general rule, all alcohol not intended for human consumption is denatured, meaning it contains additives to make it unfit for consumption. However, it is important to note that denatured alcohol does not have a different chemical composition and therefore the process can theoretically be reversed.

Seemingly, denatured alcohol should be considered unfit for canine consumption, and products containing this alcohol should therefore be permitted to own and use on Pesach. However, *poskim*, including Rav Moshe Feinstein (*Igros Moshe Orach Chaim* 3:62), are concerned that a suffering alcoholic who is desperate for alcohol will consume this denatured alcohol, and therefore even in its denatured state it does not have the status of being inedible.

There are those who will refrain from any of these products because of the severity of the prohibition of chametz. One should consult his or her rabbi to determine what the appropriate practice should be. However, it would seem that according to all opinions, if these inedible items, even if they contain actual chametz ingredients, were found on Pesach, there would be

no reason at all to destroy them, and the products could simply be put on the side for after Pesach.<sup>6</sup>

What would be the halacha if actual, edible chametz is found on Pesach?

The *Shulchan Aruch* (*Orach Chaim* 446:1) records that if you find chametz on Chol Hamoed you must burn it immediately; if it's found on one of the days of Yom Tov you must cover it lest you come to eat it, and then you burn it on motzei Yom Tov.<sup>7</sup>

What if the chametz you find in your possession doesn't belong to you, but to a non-Jew? The *Shulchan Aruch* writes (446:3) that if chametz from your non-Jewish neighbor rolls onto your roof on Pesach, you push it back with a stick (if it was on Chol Hamoed), and if it was on Yom Tov itself you cover it until after Yom Tov because it is *muktzah*. Why? You don't violate *bal yeraeh* (the prohibition against owning chametz) since it's not yours (M"B 9), so there's no need to burn it (and you wouldn't be allowed to burn it since it's not yours), but we don't want it to remain in the possession of the Jew, lest he come to accidentally eat it.

These two halachos lead to a fascinating conundrum as to what should be done nowadays if one finds chametz on Pesach. What's the issue? Common practice is to sell chametz,<sup>8</sup> and generally, included in the bill of sale is a clause that reads that "I sell all chametz that I own knowingly or unknowingly wherever it may be," and then we specify places where we know there is chametz. When chametz is now found, (not in one of those designated places), who does the chametz belong to? Does it belong to the Jew who initially owned it, or as a result of the bill of sale of the *mechiras chametz*, has this chametz that the

Jew was unaware of also belong to the non-Jew? The implication for what should be done is immense. Which of the two *halachos* mentioned above applies? Must it be burned as is the halacha for the chametz of a Jew discovered on Pesach, or is it forbidden to burn it since it truthfully belongs to the non-Jew?!

Rav Tzvi Pesach Frank (*Mikraei Kodesh Pesach* Volume 1 siman 74) is troubled by this question and presumes that chametz found by a person who sold his chametz with such a provision should be hidden away, and it is wrong to burn it (Rav Frank even briefly entertains the possibility that burning the chametz would undermine and invalidate the entire sale!).

Rav Shmuel Vosner (*Shu"t Shevet Halevi* Volume 9 siman 116) is not sure that it would, in fact, be problematic to burn this chametz. Why not? Although halachically, the *mechira* is done in a way that is completely valid, the non-Jew has no intention of ever physically benefitting from the chametz he purchased; his intention is to perform a halachically significant act of sale and to sell it back to the Jew after Pesach. Since

this little bit of chametz would not in any way impact the final value of the larger quantity of chametz that was sold, it is as if the non-Jew was *mochel*, forgave that loss. Rav Vosner seems to appreciate the novelty of this approach and its weakness in that it seems to diminish the legitimacy of the sale, and concludes that if one wishes, the chametz that is found can be lifted and brought to the place where the rest of the sold chametz has been stored away for Pesach.

Perhaps if the rabbi selling the chametz would stipulate in advance with the non-Jew, explicitly, that any chametz found on Pesach would be allowed to be burned, that would allow the original halacha cited in *Shulchan Aruch* to remain intact (even though, *me'ikar hadin*, it may not be required), and at the same time not create any perception that the sale is not a completely appropriate, legally sound transaction. Alternatively, perhaps it is worth revisiting the value of including this specific clause in the bill of sale, and whether what is gained outweighs the complications it potentially creates.

## Endnotes

1. See *Shulchan Aruch* O"Ch 459:2 for a more detailed discussion.
2. See *Biur Halacha* 462:2 "*Memaharim*" who discusses another type of possible *chametz nuksha* in a case where fruit juice is mixed with the grains. This issue and the status of that mixture is very relevant to the status of egg matzah on Pesach.
3. *Mishna Berura* 442:2 points out that this is only true if the *chametz* was never fit for human consumption, however, if at one time it was edible then it must reach a higher threshold of not being fit for a dog to eat in order to lose its status as chametz.
4. If, however, there was flavoring or the medicine was chewed in a normal fashion, it could be that the logic of the Rosh would be a concern.
5. One exception would be certain liquid alcohols, because it could be changed into edible liquid fairly easily (this is a *chumra* of Rav Moshe that is more widely accepted).
6. This is because the whole issue is rabbinic in nature, combined with the fact that *achshevei* would only apply when one is actually planning on ingesting it and that most ethyl alcohol is not actual chametz but kitniyos.
7. There's a fascinating machlokes whether or not the *bracha* of "*al biur chametz*" should be recited. See *M" B* 435:5.
8. Even though no such requirement exists if someone does *bedika* and *bittul* and rids him or herself of all chametz.

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