

לוקוטי ופסקי הלכות "חוקי חיים"

ותלמודם
"התקף תתקם"
לעשות רצונך
בלבב שלם



שע"י "חדר הוראה" שבונת מנחת יצחק פעיה"ק ירושלם תובב"א - בראשות הרב חיים אהרן בלייער שליט"א

Halochos compiled by HaRav Chaim Bleier – Translated from the Hebrew edition by R' Zerachya Shicker

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read during
davening or
Krias HaTorah

Meat Left Unattended – 1

Vayechi 5785

347

Halacha of Meat Left Unattended

Source of the Halacha

1. The halacha of meat left unattended [בשר שנתעלם מן העין] is of d'rabanan origin. The basic concept is that there is an issur to eat meat that was not under a Jew's supervision for some time, whether it was raw or cooked (פ"י לציון ח"א י"ד פ"י), out of concern it was swapped with nonkosher meat. The Amoraim, Rishonim, and poskim argue about the severity of the issur.
2. **Relevant in practice.** This topic is very relevant in practice in all sorts of areas, e.g., in situations of non-Jewish employees in a commercial kitchen, unsupervised non-Jewish help in a home, deliveries of meat products by a non-Jew, ordered restaurant food delivered by a non-Jew, etc. [The concern about food delivery by non-Jews applies to foods other than meat too, e.g., fish or cheese, as will be explained.] We will endeavor to first cite the sources, principles, and halachic details of the issur from the sugyas, Rishonim, and poskim, as well as the angles and situations of heter. Then, we will go through common examples.

Rav and Levi

3. **Rav.** The Amora Rav holds (חולין צה.) that meat left unattended, i.e., not seen for a period of time, becomes assur out of concern it was swapped with neveila or nonkosher meat by a raven, mouse, or person. It is clear from some Rishonim that Rav only forbade this as a chumra and safeguard (תוס' שם), as it is unlikely, generally speaking, for birds or rodents to swap meat.
4. According to Rav, for meat not to become assur to eat, there must be a scenario where one knows with certainty the meat was not swapped, e.g., he did not take his eyes off it; it was sealed and wrapped; it has identifying marks or he recognizes it; or it is in a spot where birds and rodents cannot get to it.
5. **Levi.** However, Levi in the Gemara holds there is no concern meat left unattended was swapped with neveila meat, so if most meat in the area is from Jews, it may be eaten.

Machlokes Among the Poskim

6. **Machmir.** Some Rishonim are machmir and pasken like Rav (רי"ף); (וחולין דף ל"ג ע"ב, רמב"ן, ר"ח, רמב"ם פ"ח מאכ"א הי"ב); the Mechaber follows this opinion (שו"ע י"ד סי' ס"ג ס"א).
7. **Meikel.** However, many poskim are meikel and pasken like Levi (רש"י שם דף צ"ה ע"ב בסופו, תוס' כ"ב דף כ"ג ע"ב ד"ה מחרוזת, ר"ן).
8. **Kosher if found where it was left.** Some say it depends: If the meat was found where it was left, it is mutar even if it is in an area where most butchers are non-Jews and one does not recognize it or see an identifying mark (ש"ך שם סק"ג). However, if a bird took meat and returned it, we are concerned it swapped the meat (רשב"ם הובא בראש פ"ז סי' כ"ב ובטור, רשב"א בתו"ב הארוך ב"ד ש"ב) (ל"א). Also, if it was not found where it was left, it is assur if most butchers are non-Jews (ש"ך שם). The Mechaber cites this opinion as a "יש מתירים" (שו"ע שם ס"ב), and the Rama concludes the minhag is to be meikel in line with this (רמ"א שם).

Food Sent via a Non-Jew

9. Separate from the concern birds swapped meat left unattended (above, 3), there is an additional concern when food is sent via a non-Jew that he intentionally swapped the kosher food with nonkosher

food. Thus, to avoid this concern, the delivery should bear a seal to ensure it was not swapped, as will be explained below. [In the coming issue, we will א"ה go into detail about the single or double seal and its purpose, as well as its modern application in common cases.]

Single Seal or Double Seal?

10. **חב"ית.** The Gemara (ע"ז ל"ט.) explains there are four things which must bear a seal within a seal, i.e., two seals, when deposited or sent with a non-Jew or a suspected Jew to ensure they were not swapped. They are: a piece of fish [תתיכת דג]; meat [בשר]; wine [יין]; and techeiles [תכלת]. The acronym for this is חב"ית.
11. **חמפ"ג.** There are things that only require a single seal when deposited or sent with non-Jews: milk [חלב], fish brine [מורייס], bread [פת], and cheese [גבינה]. The acronym for this is חמפ"ג.

Reason for a Double Seal

12. The Rishonim offer multiple reasons why some things – חב"ית – require two seals and others – חמפ"ג – suffice with one.
13. **Expensive.** Some hold חב"ית cost more than other things, so there is a concern they will be swapped (אסורין) (רש"י ע"ז דף ל"ט: ד"ה אסורין).
14. **Issur on its own.** Others explain Chazal only made a gezeira on issurim which stand alone, e.g., neveila meat, not on issurim within a mixture, e.g., חמפ"ג (תוס' שם ע"א ד"ה אמר).
15. There is another opinion that Chazal were machmir on things which have a d'oraisa issur (רמב"ם פ"יג מאכ"א הי"י). They were also machmir on stam yayin as if it were d'oraisa because pouring wine to avoda zara is special to non-Jews and there is a concern they will make the effort to forge a single seal (י"ד ק"ה). The Mechaber implies he follows this opinion (שו"ע ק"ה ס"א).

Cases Where It Is Mutar

16. There are multiple heterim for these matters mentioned by the poskim. Some apply to a non-Jew in a Jew's house; some apply when sending meat products or the like via a non-Jew; and some apply when such products are deposited with a non-Jew. Some of them are only b'dieved, while others may even be relied on l'chatchila, as will be explained.

In a Non-Jew's Hands

17. A some hold two seals are only necessary for a suspected Jew, as he is confident that, being a Jew, he will be believed he did not swap the meat. A non-Jew, however, is more afraid to swap meat than a suspected Jew, so one seal is enough (תוס' בשם ר"ת). The Rama cites this as a "יש אומרים" and concludes it may be relied on b'dieved (רמ"א שם).

Will See the Seal Again

18. **Depositing with a non-Jew.** Some hold two seals are only necessary when the sender will not later see his seal and be able to recognize whether it is unbroken, as the shliach thinks the recipient will not recognize the seal so he is not afraid the swap will be caught. However, if the sender will personally see the seal again, e.g., he is temporarily leaving meat with a non-Jew, one seal is enough (תוס' שם דף ל"א ע"א ד"ה דאמר). The Mechaber cites this opinion as a "יש אומרים" (שו"ע שם).
19. **Described the seal to someone.** The same is true if one told the recipient of the meat what the seal looks like, and the non-Jew is aware the recipient knows what the seal looks like. This is because the non-Jew is afraid to forge the seal (שם).

תמיכה לעספי ותורה בני תחיל בארצות

This Motzei Shabbos
סעודת מלוה מלכה רבתי

מוצש"ק פ' ויחי
JANUARY 11TH
9:30 PM

בחוב תכלת מרדכי 9
מול בני נאולה
ובית המדרש נחלת עקיבא

Does Not Benefit from the Swap

20. Another heter given is that the whole concern is for someone to make a swap for some benefit to him, e.g., there is a concern one might swap fatty kosher meat with lean nonkosher meat. However, if there is no benefit to be gained from swapping, we are not concerned one swapped the meat purely to cause an aveira, and it is mutar b'dieved even in the absence of a seal or if the seal is broken (תוס' ע"ז דף י"ב ע"א ד"ה ושדי, שו"ע שם ס"ג, רמ"א ס"ב).
21. It should be noted that we are not generally worried a non-Jew will do something purely to cause a Jew to eat forbidden foods. The whole concern of swapping is only if the non-Jew will gain; if he will not, the above heter applies. However, if a particular non-Jew is known to be or is clearly up to no good and he also finds ways to cause Jews to do aveiros for no good reason, we are concerned he will make a swap even with no benefit to himself.
22. **Received good meat.** If one sees food sent by a non-Jew and can tell it is of high quality, he may eat the food b'dieved even if the seal is broken. We are not concerned the non-Jew swapped kosher food with assur food since he would not benefit from swapping the food, as the meat in front of him is also good.
23. **L'chatchila.** Nevertheless, multiple poskim say one should not rely on this heter alone l'chatchila, especially if it does not take much effort to swap them (ש"ת מהר"ט ח"ב י"ד סי' ג, שיערי דעה סק"ג), דרכי תשובה סקע"ה (ש"ת לבוש מרדכי י"ד תנינא סי' נ"ד) l'chatchila.

Through a Public Area

24. Another heter given is that if the deliveryman must go entirely through an area frequented by many people who can see him and the contents of the delivery the whole time, the food may be eaten even if it was sent without a seal, because he is afraid a passerby will see him (שו"ע שם ס"ח). This is true even in a place where most people around are non-Jews, as the non-Jew is afraid they will see him swapping the food and tell this to a Jew (ט"ז סק"י). One may rely on this b'dieved even at night, when there are not many people passing by (מור"ד בשו"ת שבט הקהתי ח"ו סי' רפ"ו).
25. **Only b'dieved.** The Mechaber concludes one should not rely on this l'chatchila to send something without a seal (ש"ת הרשב"א ח"א) (סי' תשס"א, שו"ע שם (תורת חסאת הוא בט"ז סק"א, חכ"א כלל ע' דין ח', ערוה"ש סכ"ו)).
26. **Single seal.** Although some specifically do not rely on the heter of a public area l'chatchila, that is when there is no seal. However, one may rely on this heter even l'chatchila if there is one seal (ש"ת תשב"ץ סי' של"א, שו"ת מהרש"ג י"ד סי' נ"ח).

Comes and Goes [יוצא ונכנס]

27. Another heter is when one leaves meat in a non-Jew's house; or it is placed in a non-Jew's possession without a seal; or a non-Jew is in a Jew's house; and the Jew comes and goes, i.e., he has the ability to enter at any moment and the non-Jew does not know when he will come. The meat is mutar because at any given moment, the non-Jew is afraid the Jew might come and see the swap (שו"ע ס"י). Even a child with a certain level of knowledge coming and going works (ש"ך סק"ג).

A Professional Worker

28. **Some say mutar.** Some poskim say when one leaves meat or the like with a non-Jewish professional worker or uses him to deliver food, one seal is enough in all cases, as a professional worker does not undermine his professional reliability. For example, Jews used to pay a non-Jew to put meat or cholent for Shabbos in his oven. Since the non-Jew took payment, he is like a professional, who does not undermine himself, and the food is mutar with one seal (פרי"ח סי' ק"ח סק"ח, שו"ת מהרש"ג י"ד סי' נ"ח).
29. **Some say assur.** However, others argue and hold there is no heter for a professional. If there were, there would be no need for any seal; it must be there is no heter at all (שו"ת חכם צבי סי' ל"ט), ערוה"ש סכ"ג. Still, regarding the case of paying a non-Jew to leave cholent with him, we mentioned above (18) that some allow a single seal when the sender/owner will see the seal (ערוה"ש שם).

Non-Jew in a Jewish Home – Common Scenarios

Non-Jewish Maid in a Jewish Home

30. **Does not benefit from swapping.** When a non-Jewish woman is in a Jewish home as cleaning help or she is always in the house on a permanent basis, one does not need to be concerned she swapped fleishige items lying on the counter, in the cooking process, or in the fridge. She would not generally benefit from the swap (above, 20), and one can be meikel on this in a Jewish home.
31. **Comes and goes.** Also, as long as she does not know when a Jewish person is supposed to come to the house, the coming-and-going heter usually applies, as she would always be afraid the Jew might come home and catch her swapping it.
32. **Sleeping.** However, if the Jew went to sleep and the non-Jew knows he will not rise in the middle of the night (כ"פ החיים סי' קכ"ב) or if the Jew left the house for an extended time and the non-Jew knows this, he may not leave the non-Jew in the house if there is no additional factor allowing for heter.
33. **Found where it was left.** According to the Mechaber (above, 6), who is concerned about meat left unattended in all cases, if one left meat in a particular spot in the house and finds it in the same place he left it, he would still need one of the abovementioned heterim. According to the Rama, who is meikel on meat found in the place it was left (above, 8), there is no need to be concerned the non-Jew swapped it even without the above heterim.

Cameras in the House

34. The poskim discuss whether we may use cameras for various types of halachos, e.g., for yichud (see Issue 165, par. 30) or cholov Yisroel (עי' בספר החשוב חלב ישראל כהלכתו פ"ד סי' ב'). The poskim agree cameras, when used properly, do help for meat left unattended. If the non-Jew knows there are cameras installed; they cover the area the food is in, e.g., the kitchen; and he is afraid they will check the footage and know he swapped the food; then the cameras successfully remove the concern (הגר"נ קרליץ הובא בס' עזרה כהלכה עמ' קל"ב, חלקת בנימין סי' קכ"ט ס"ה, שו"ת משיב נבונים ה"ז סי' ל"ט).

Fleishige Food in a Fridge Shared by Jews and Non-Jews

35. When one leaves prepared fleishige food in an area shared by Jews and non-Jews, e.g., in a workplace or the like, where everyone may use the fridge for his personal food, but there are always Jews coming and going and a non-Jew would not know exactly when someone will pass by, we are not concerned the non-Jew will swap the meat. However, if it is not a situation of "coming and going" and there is a concern a non-Jew will take the kosher meat and swap it with nonkosher meat, a Jew must seal the fleishige food with two seals (אהל יעקב מאכלי עכ"ם עמ' (תקס"ב). For example, he can tie the bag closed with a knot, close the knot with adhesive tape, and write his name on a piece of paper under the tape. Then he may leave it there l'chatchila, in accordance with the halacha of a double seal.
36. **Hospital.** Similarly, l'chatchila, it is certainly preferable for a yolede or anyone else in a hospital, where all sorts of foods are placed in a shared fridge, to use a double seal, as mentioned. At the very least, the food should be in a closed bag with the owner's name on it. B'dieved though, the food is not assur because there are multiple angles of heter to rely on, e.g., there is nothing to be gained by swapping it (20) and it is likely many people walk around there, giving it the status of a public area. Usually even at night there is always someone around there (24).
37. Another point to be made is that if a non-Jew wanted to take something in a public place like this, he would likely steal it and not feel the need to replace what he took with a substitute. Our whole concern is about a non-Jew swapping kosher meat for nonkosher meat; we have no concerns about assur foods if a non-Jew just takes food without replacing it (השלחן כהלכתו סי' ט"ז ס"ח).

בית המדרש קהל אברכים

רח' תובל 1 (מעל ביהמ"ד החסידי טשערנאביל) פעיה"ק ירושלם תוכב"א

לקראת ימי השובבים הבעל"ט

הננו להודיע לאברכים מבקשי השם כי בעוה"ש"ת יתקיים סדרת שיעורים בהל' מרהר

ע"י מוריננו רבי חיים אהרן בלייער שליט"א

רב בית מדרשינו ובעל 'חוקי חיים'

השיעור יתקיים במוצאי שבת קודש

של פרשיות ויחי, וארא, בשלח, יתרו, משפטים

בשעה 9:45 בהיכל בית מדרשינו הגבאים

נתרם הרה"ח ר' יצחק זאב צבי פריעד שליט"א

אב"י ירושלים

שמחת האויפרוף לבנו התתן רב ני"ז לרגל

מחשובי תלמידי ישיבת בריסק

שחרית בשעה 08:35 בביהמ"ד נחלת עקיבא (נני גאולה)

קידושא רבה (גם לנשים) אחרי התפילה (11.05 משוער)

באולם בנות הדסה רחוב ירמיהו 17 ירושלים