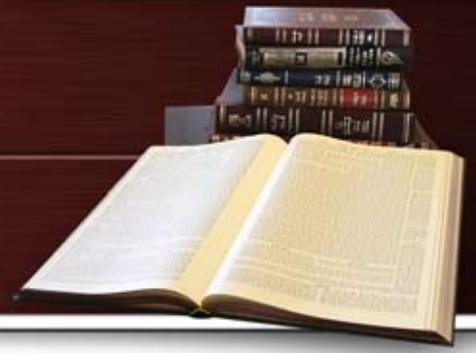


HALACHICALLY SPEAKING



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VENDING MACHINES IN HALACHA

We are all familiar with the availability of *kosher* snacks and beverages in vending machines throughout the world.^[1] A new kind of vending machine is now common in a number of locations. The machine warms up food such as pizza, mozzarella sticks, knishes, and onion rings in an oven. The entire heating process takes 90 seconds. The advantages of such a machine are obvious. There are questions which arise regarding a vending machine which does not heat up foods as well as will be discussed below.

The following are some important *halachic* questions regarding a vending machine.

- Is one is allowed to offer food to non-*frum* Jews who will not wash their



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hands for bread or recite *berachos* (but who wish to purchase *kosher* food)?

- Bread products are sold in vending machines in areas where a firm washing cup may not be available. Is a disposable cup permitted?
- Often, these machines are placed in an area where there are hot-air hand dryers and no paper towels. Can one use these hand dryers for *netiylas yadayim*?
- There are various foods offered for sale in these machines. What *berachos* should be made on these foods?
- With regard to *hilchos Shabbos*, how could the owners keep this machine running during *Shabbos* since they are making money from the machine? There is a *halacha* of “*sechar Shabbos*” which forbids this. In addition, may a *kashrus* agency certify such a company?
- Dairy items such as pizza and *pareve* items such as knishes are baked in the same oven. What *kosher* status do the *pareve* items have?
- Does unflavored water require a *hashgacha* (this is a beverage sold in vending machines across the world). What about purchasing a Pepsi® product without a KOF-K?
- Can one who only eats *pas yisroel* purchase *pas paltar* products in vending machines (or stores) when he is in a remote location?
- In addition, can one be lenient on *cholov stam* or D.E. (dairy equipment) if he is in a remote location where such items are sold in a vending machine? Is it permitted to purchase unflavored coffee from a vending machine?
- There are many *choshen mishpat* questions which arise regarding vending machines. For example, can one keep an extra food (or money) which may be found before or after your selection?
- We will discuss each of these *halachic* issues below.

Offering Food to People Who Will Not Wash or Recite a *Beracha*

The *Gemorah*^[2] maintains that one may not give bread to people who will not wash on it, because one is not allowed to cause someone to eat without a *beracha*.^[3] This *halacha* is codified in the *Rama*, who adds that one should only give bread to someone who he knows will wash on it.^[4] The *Tzitz Eliezer*^[5] says that the latter *halacha* is only a pious act, but not an *issur*.

Accordingly, it would seem that selling food in vending machines to non-*frum* Jews is forbidden.^[6] However, in reality, this is not true.

The *Toras Chessed* says that the *issur* only applies if one gives the person his own food as a gift, but if the person himself buys the food there is no *issur*. The reason is because he can buy the food anywhere.^[7] This is the opinion of the *Tzitz Eliezer*^[8] as well as others.^[9] Since the food in the vending machines is offered for sale, one may sell it to those who will not wash for bread or recite a *beracha* on the food.^[10]

Disposable Cup for Washing *Netiylas Yadayim*

There is a view that says that one should not use a disposable cup for *bentching* and *kiddush*.^[12] However, this view permits a disposable cup if nothing else is available.^[13] Others regard a disposable cup as a utensil since it can be reused, and may therefore be used, even initially, for *bentching* and *kiddush*.^[14] Regarding *netiylas yadayim* it would seem that there is no concern with using a disposable cup.

Washing Hands

Often, the washing station is far from the eating area. To avoid a concern of *hefsek* between drying of his hands and the *hamotzei*, one should not dry his hands until he arrives at his seat.^[15] Others say to recite the *beracha* of *hamotzei* at his seat.^[16]

Drying Hands – Air Dryer

One must dry his hands after he washes for bread.^[17] The *Mishnah Berurah*^[18] offers two reasons for this. First, so the water on his hands should not contaminate the food. The second reason is to maintain cleanliness. We hold like both reasons. Therefore, even if one washes with a *reviis* on each hand, and the water is not *tomei*, he still has to dry them.^[19] One should use a towel or napkins to make sure that his hands are dry.^[20]

If a towel is not available, one may use a hot air dryer which is common in public restrooms.^[21]

Drying hands on one's clothing causes him to forget his *Torah* knowledge.^[22]

Berachos

Pizza: How Many Slices is a *Seuda*?

When eating pizza, one is faced with the question of how many slices would constitute a *shiur kevias seuda* to require washing and *bentching*.

Many *poskim* say that even one slice of pizza has a status of a meal for which one is required to wash and *bentch*.^[23] Others say the *shiur* is two slices,^[24] while others say that two slices would only constitute a meal if they are eaten with something else, such as a knish.^[25] Therefore, one should consider why he is eating the pizza: if it is only for a snack, then he should wash and *bentch* if he plans on eating more than two slices. If he is eating it as a meal, then he should wash even on one slice.^[26]

Frozen Pizza

Two methods are commonly used to manufacture frozen pizza. One technique is to bake the dough without any cheese or toppings on it, and add the cheese and sauce after the dough has become bread-like and hard. The *beracha* on such pizza is *hamotzei* because the crust is real bread before the ingredients were added to it.^[27] However, most frozen pizza is prepared by simply freezing and packaging regular pizza. Such frozen pizza would have the same *din* as regular pizza.

Therefore, one must identify the variety of his frozen pizza. Look carefully at the slice. If the cheese is in separate pieces then the dough was baked first and the cheese



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was added afterward. However, if the cheese looks like it is melted into the dough, then it is regular pizza that was frozen.^[28]

Square (Sicilian) Pizza

Square pizza is made by first baking the dough and then adding the cheese. Therefore, its *beracha* is always *hamotzei*,^[29] although many people are not aware of this and recite a *mezonos*. This can apply even if the pizza dough is made with other juices (for a detailed discussion on this topic see *Halachically Speaking* on Pizza and *Kevias Seuda* – Volume 3 Issue 26 available at www.thehalacha.com).

Knish

A knish which has a layer of dough which completely surrounds the filling (i.e. Mom's knish) requires a *mezonos*, and no separate *beracha* is necessary on the filling. However, if the crust does not cover all sides or the outer covering is very thin then it would require a *mezonos* on the crust and a separate *beracha* on the filling.^[30]

Mozzarella Sticks and Other Breaded Foods

What *beracha* is recited on mozzarella sticks? Since they are coated with breadcrumbs, is it a *mezonos*? Some say that if the breading is thick, then a *mezonos* should be made on the breading and a *shehakol* on the coated food.^[31] Others say that only a *mezonos* is made.^[32] If there is a thin coating, a *shehakol* is recited even if the breading adds taste to the food.^[33] If one is unsure if the coating is thin or thick, one should recite a *mezonos* on the food item, and a *shehakol* on another food.

Onion rings

The *beracha* for onion rings is a *mezonos* since a heavy layer of dough surrounds the onion rings.^[35]

Sechar Shabbos

The *Gemorah*^[36] says that one may not earn money on *Shabbos*.^[37] Such income is called *sechar Shabbos* and is prohibited in order to prevent one from conducting business on *Shabbos*,^[38] even if the actions are done on *Shabbos* are permitted (i.e. babysitting or tutoring someone). Since the money is being earned on *Shabbos*, it is forbidden.^[39] There is no difference whether the employer is a Jew or non-Jew.^[40] This *issur* also applies to rental income; thus, one may not rent his possessions exclusively for *Shabbos*.^[41]

The Recipient or Giver

There is a major debate among the *poskim* if the *issur* of *sechar Shabbos* applies to the giver or the recipient. Most *poskim* say that the *issur* applies only to the recipient.^[42] According to this opinion, one could compensate a non-Jew for work done on *Shabbos* on behalf of a Jew. However, a Jew would still not be able to pay another Jew for services done on *Shabbos*. By taking the payment, the recipient would be transgressing the *issur* of *sechar shabbos* and the giver would transgress *lifnei iveir* by paying him.^[43]

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Benefiting From *Sechar Shabbos*

One who receives *sechar shabbos* may not use the money.^[44] Some suggest that one give the money to *tzedaka* in a way that he does not benefit from it.^[45]

The *Heter of Havla'ah*

It is permitted to receive a single lump sum as compensation for a job that was performed both during the week and on *Shabbos*. This is called *havla'ah*, which means that the payment for *Shabbos* is mixed in with compensation for a weekday.^[46]

To be considered *havla'ah*, the *Shabbos* work must be part of a single job for which one payment will be given.^[47] Each party must understand that they cannot back out of the job.

According to some *poskim*, it would be permitted to receive money for services provided on *Shabbos* as long as some preparatory work or monetary expense was incurred before *Shabbos* - even if it is not directly related.^[48] For example, a *Rav* may be paid for a *shiur* delivered on *Shabbos* since he had to prepare for the *shiur* before *Shabbos*.^[49] Similarly, a *chazzan* who practiced for many years until he perfected his skills would be permitted to receive payment for a job done on *Shabbos*.^[50] It is preferable to work out an arrangement where there is a direct weekday preparation for the *Shabbos* job.^{[51] [52]}

Vending Machines – *Sechar Shabbos*

Many *poskim* allow ownership of a vending machine which is placed in an area that will be making money on *Shabbos*. One of the reasons is that the money earned on *Shabbos* is absorbed in the rest of the week's earnings.^[53] Furthermore, expenses are incurred during the week for the up-keep of the machine.^[54]

Accordingly, there is nothing *halachically* wrong with owning such a machine and making money from the *Shabbos* purchases, nor for a *kashrus* agency to certify it.

Bishul Akum

The food in the vending machines is already cooked, and the machine simply warms up the food. Therefore, there is no *bishul akum* concern, even if a non-Jew plugged it in.^[55] In addition, it can be assumed that even if it would somehow be considered *bishul*, there is no concern of *bishul akum* since this type of food is not fit to be served on a king's table (*oleh al shulchan melachim*).^[56]

What is the Dairy Status of the Food?

The pizza and mozzarella sticks are baked in the same oven as the knishes. The food is wrapped and placed on a tray. When a selection is made, it is removed from the wrapper and placed in the oven. After warming, the food is returned to the wrapper and delivered through the bottom of the machine. One should not eat the knish with meat, since the food is baked in the same oven as dairy food, even though the dairy does not splatter.^[57]

The *halachos* below are relevant to all vending machines.



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Bottled Water without *Hashgacha*

Plain unflavored water does not require a *hechsher*. Therefore, purchasing unflavored water in a vending machine (or store etc) is permitted.

Pepsi® without a KOF-K

It is common to purchase a Pepsi® product without a KOF-K in a vending machine. The Pepsi® syrup and the bottling plants are under two different *hashgachos*. If there is no KOF-K on the cap or label then the KOF-K does NOT recommend it.

Pas Paltar - On the Road

Many times one is traveling and finds himself at a vending machine that offers baked goods which are *pas paltar* (baked by a non-Jewish baker that obviously have a good *hechsher*). Should one who is careful with eating *pas paltar* be stringent in this situation as well?

If one is on the road where there is no *pas yisroel* for seventy-two minutes of travel,^[58] (even by car),^[59] he may eat *pas paltar*.^[60] Some say the seventy-two minute *shiur* is only in the direction one is heading and one does not have to go out of his way to obtain *pas yisroel*.^[61] One who bought *pas paltar* in the above situation (on the road) and may eat the leftovers after he comes home if he can not get *pas yisroel*.^[62]

The above is only according to the opinion of the *Shulchan Aruch* who says that *pas paltar* is only permitted if there is no *pas yisroel* available, but according to the *Rama* who says *pas paltar* is permitted without this, then one does not have to wait at all.^[63]

Purchasing Unflavored Coffee in a Vending Machine

Purchasing unflavored coffee in a vending machine is permitted to drink and there is no concern of *bishul akum* (or *kashrus*) at all.^[64] One should make sure that the same machine does not produce chicken soup or other non-*kosher* foods.^[65]

Cholov Stam - While Traveling

When one is in a place where there is no *cholov yisroel* he can be lenient and drink *cholov stam* even if he is normally *makpid* on it.^[66] This is common when one is traveling and finds a vending machine that offers *cholov stam* products for sale.

Dairy Equipment

One who is careful to use *cholov yisroel* because he is *machmir*, can still eat foods which were cooked in non – *cholov yisroel* equipment.^[67] One of the reasons is since the custom is to treat *cholov stam* as a *chumra*, the *chumra* only applies to drinking milk but not to milk equipment.

^[1] Regarding vending machines which sell small *Torah* booklets see article at <http://www.israelnationalnews.com/News/News.aspx/130142>.

^[2] Chullin 107b.

^[3] O.C. 169:2. Refer to Ben Ish Chai Shemeni 1:10, Maharshag 6:17, Nemukei Orach Chaim 169, Igros Moshe O.C. 5:13 in depth, Minchas Shlomo 1:35:1, Krayna D'igrisa 1:141:page 158, Piskei Teshuvos 169:3-4, Chanoch L'nar

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14:1:footnote 1, 4:49, Rivevos Ephraim 1:295, 2:68:6, 3:127, 5:480, 8:74, 480:3, 8:588:1, Shevet He'Levi 1:37, 205:163, 4:17, 8:47, 165:7, Divrei Yatziv 1:80, Pe'er Hador 3:page 195, V'ezos Ha'beracha page 187 (new), Chai Moshe 169:pages 284-287 in depth.

[4] O.C. 163:2.

[5] 22:3. Refer to *ibid* where he discusses giving food to a *cheloni* (See Teshuvos V'hanhagos 4:49).

[6] Piskei Teshuvos 169:footnote 16.

[7] 1:5:page 33. See Toras Chesed *ibid* where he explains this reason. Also see Kaf Hachaim O.C. 163:16.

[8] 12:67, see 11:34. Refer to Miyum Ha'halacha 2:86:pages 193-194, Shaarei Ha'beracha 13:footnote 27.

[9] Maharshag 6:17. Refer to Maharsham 2:93, See Nemukey Orach Chaim 169 who argues.

[10] The same *heter* would apply to any place which offers food for sale i.e. a hotel or restaurant. There are other reasons to be lenient as well when it comes to *kiruv rechokim* (Refer to Teshuvos V'hanhagos 1:483, 2:138, Ve'aleihu Lo Yeibol 1:page 106:130, Shevet Hakehasi 4:329). See Kovetz Teshuvos (Harav Elyashiv Shlita) 1:20.

[11] Shulchan Aruch 183:3. See Mishnah Berurah 183:10.

[12] Igros Moshe O.C. 3:39, Minchas Yitzchok 10:33, Shraga Hameir 1:55:2, 2:80, Kinyan Torah 1:49:2. Some say you should make sure to use it many times and then it is permitted (Rivevos Ephraim 7:372).

[13] *Ibid*. See Kinyan Torah 1:49. Those who take two disposable cups and place in into the other and use it for washing is mistaking. If one holds that one disposable cup is no good, then two are not either good (Harav Yisroel Belsky Shlita, see Shaarei Ha'beracha page 142:footnote 142, Piskei Teshuvos 159:footnote 7).

[14] Shemiras Shabbos K'hilchoso 47:footnote 51, Be'er Moshe 1:49, V'Yan Yosef O.C. 65, Tzitz Eliezer 12:23, Oz Nedberu 6:48, M'Ein Omer 1:page 234:15.

[15] Harav Yisroel Belsky Shlita, see Rivevos Ephraim 6:75 quoting the opinion of Harav Yaakov Kamenetsky zt"l.

[16] Kaf Hachaim 166:10.

[17] Shulchan Aruch 158:12.

[18] O.C. 158:46.

[19] Mishnah Berurah 158:46, Piskei Teshuvos 158:28.

[20] Levush 13, Shulchan Aruch Harav 158:17.

[21] Betzel Hachuchma 4:141, Oz Nedberu 8:52, Shearim Metzuyanim B'halacha 5:page 20, Kovetz Bais Aron V'Yisroel 14:page 99, Pri Temarim 11:page 13-17, Rivevos Ephraim 3:103, 5:602:3, 604, page 440. Others are stringent, see Kaf Hachaim 158:87, Otzros Yerushalayim 233:page 524, Rivevos Ephraim 2:68:4 who bring the opinions.

[22] See Magen Avraham 158:17, Pri Megadim Eishel Avraham 17, Shulchan Aruch Harav 18, Ben Ish Chai Shemeni 1:8, Mishnah Berurah 158:45, Kaf Hachaim 158:87, Yalkut Yosef page 250:footnote 12, Rivevos Ephraim 1:126, Shaarei Ha'beracha 1:43 footnote 133, Shemiros Haguf V'hanefesh pages 191-192, Piskei Teshuvos page 352:29. Refer to Rivevos Ephraim 5:35 and Sheilas Rav 1:21:7 who permit one to dry his hands on linen and pillows. The Aruch Hashulchan 17 says it is referring to all clothing.

[23] Vezos Ha'beracha pages 216-217 quoting the opinion of Harav Shlomo Zalman Aurbach zt"l, and Harav Elyashiv Shlita, see Pischei Halacha 8:25. The Sefer K'zayis Hasholom page 71 says one slice of pizza has 8-9 *k'zaysim* so one would have to wash and *bentch* according to everyone.

[24] Opinion of Harav Moshe Feinstein zt"l, Vezos Ha'beracha page 24, Chai Moshe page 283, see Bais Avi 5:7-12.

[25] Harav Yisroel Belsky Shlita. Refer to Kashrus Kurrents from the Star-K (www.star-k.org).

[26] Mesora 1 pages 29-43.

[27] Mesora *ibid*.

[28] Harav Yisroel Belsky Shlita. In regard to some *kashrus* issues with frozen pizza refer to the OU website at www.oukosh.org.



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[29] The same is true for pizza which is made by placing tomato sauce etc on pita bread which is commonly served in *Yeshivos*.

[30] Harav Yisroel Belsky Shlita, see The Laws of Brachos page 376, Pischei Halacha michtavim 21, Vezos Ha'beracha birur halacha pages 308-309.

[31] Vezos Ha'beracha page 110.

[32] Rivevos Ephraim 5:147, Vezos Ha'beracha ibid quoting the opinion of Harav Elyashiv Shlita, V'sein Beracha page 78, Birchos Haneinen pages 129 quoting the opinion of Harav Elyashiv Shlita, Ve'aleihu Lo Yeibol 1:page 113:148.

[33] Refer to Lehoros Nossan 4:9, 5:6, L'Torah V'horah 5:page 21, Rivevos Ephraim 3:122 quoting the opinion of Harav Moshe Feinstein zt"l, Harav Yaakov Kamenetsky zt"l, and others, Shaarei Ha'beracha 16:21, Divrei Chachamim page 72:7 quoting the opinion of Harav Yaakov Kamenetsky zt"l, Birchos Haneinen pages 129-130 quoting the opinion of Harav Shlomo Zalman Aurbach zt"l, V'sein Beracha page 78 quoting the opinions of Harav Sheinberg Shlita, Harav Moshe Feinstein zt"l, and Harav Yaakov Kamenetsky zt"l, Emes L'Yaakov 208:footnote 214, Ve'aleihu Lo Yeibol ibid. Refer to Pnei Hashulchan pages 221-226 in depth.

[34] Harav Yisroel Belsky Shlita.

[35] V'sein Beracha page 79.

[36] Bava Metzia 58a, Nedarim 37a. See Minchas Osher 1:36-37. Receiving money for work done on *Yom Tov* is also forbidden (Shulchan Aruch 585:5, Mishnah Berurah 61, Shemiras Shabbos K'hilchoso 28:50). Some say there is no *issur* if the money being received is less than a *peruta* (Shemiras Shabbos K'hilchoso 28:footnote 108, Shevet Hakehasi 3:107).

[37] Rambam Hilchos Shabbos 6:25, Tur 306.

[38] Rashi Meseches Kesubos 64a "k'sechar," Shaar Ha'tzyion 306:14, Mishnah Berurah 16, see Shulchan Aruch Harav 8, Binyan Sholom 306:pages 37-38. In regard to why this *gezeira* is not considered a *gezeira* on top of another *gezeira* refer to Bais Yosef 585, Elya Rabbah 306:14.

[39] Refer to Teshuvos V'hanhagos 4:page 433:33, see 1:214.

[40] Shulchan Aruch 246:1, Mishnah Berurah 3, Shemiras Shabbos K'hilchoso 28:56.

[41] Magen Avraham 246:3, Mishnah Berurah 3.

[42] Refer to Tur 306, Shulchan Aruch 334:25, Mishnah Berurah 306:21, Tehilla L'Dovid 243, Shraga Hameir 3:108:3, Minchas Osher 2:44, Likras Shabbos 2:22:footnote 51:1.

[43] Mishnah Berurah 306:21. Refer to Shemiras Shabbos K'hilchoso 28:49.

[44] Refer to Ritvah Avodah Zarah 26a, Shulchan Aruch Harav 245:19, Aruch Hashulchan 245:18, see Biur Halacha 245 "ossur."

[45] Igros Moshe O.C. 4:59, see Mases Shabbos page 50:13, Migdal Dovid kosev footnote 111.

[46] Rashi Bava Metzia ibid "nosnim," Shulchan Aruch 306:4, Kitzur Shulchan Aruch 306:9, Aruch Hashulchan 9, Kaf Hachaim 31, Minchas Osher 1:29, 35, see Shol U'meishiv 5:24, Mishnah Berurah 306:21. We are commanded everyday to remember *Shabbos*. However, how do we get *sechar* for this, it is *sechar Shabbos*? However, since we are commanded everyday, the *sechar* we receive is *havla'ah* (Binyan Sholom pages 34-35). The *poskim* offer reasons as to why there is no concern of receiving money with *havla'ah*. (Refer to Shulchan Aruch Harav 306:9, Binyan Sholom page 51, see Mases Shabbos pages 52-54).

[47] Refer to Maharam Shik O.C. 96, Minchas Osher 2:38:page 95, Be'er Moshe 5:102, Binyan Sholom 306:page 50.

[48] Refer to Nodeh B'Yehuda O.C. 2:26, Aruch Hashulchan 306:12, Yaskil Avdi 7:19, Yabea Omer 5:25:18, Tzitz Eliezer 13:28.

[49] Yaskil Avdi 7:19.

[50] Refer to Aruch Hashulchan 306:11-12, Teshuvos V'hanhagos 3:168, Shevet Ha'Levi 9:66, Tzitz Eliezer 7:28.

[51] Harav Yisroel Belsky Shlita, see The Shabbos Home 1:page 35. There is a discussion in the *poskim* whether the work

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that is done for *havla'ah* may also be done after *Shabbos*, or can it only be done before *Shabbos* (See Tosfas *Shabbos* 244:16, Mishnah *Berurah* 306:21, Kaf *Hachaim* 306:34, Mases *Shabbos* page 56:footnote 38, *Shemiras Shabbos K'hilchoso* volume 3:footnote 129:page 48, *Binyan Sholom* pages 50-51, *Megillas Sefer* 81:4).

^[52] See Tosfas *Shabbos* 244:16, Mishnah *Berurah* 306:21, Kaf *Hachaim* 306:34, Mases *Shabbos* page 56:footnote 38, *Shemiras Shabbos K'hilchoso* 3:footnote 129:page 48, *Binyan Sholom* pages 50-51, *Megillahs Sefer* 81:4.

^[53] Harav *Yisroel Belsky Shlita*, see *Shulchan Ha'Levi* 2:7, *Practical Laws Of Shabbat* 1:pages 5-6 in the *haskama* of Harav *Yisroel Belsky Shlita* to the *sefer*. Refer to *Minchas Osher* 1:31:page 128.

^[54] Refer to *Givat Halvana* O.C. 28, *Maharshag* 2:117, *Rivevos Ephraim* 3:252, *Shemiras Shabbos K'hilchoso* 29:28, *Shulchan Shlomo* 306:4:8:2:footnote 3, *Minchas Osher* 2:35, 42, *Minchas Yitzchok* 3:34, *Chelkes Yaakov* 2:102. In regard to leaving a Jewish owned *Laundromat* opened on *Shabbos* refer to *Shearim Metzuyanim B'halacha* 80:63.

^[55] Refer to *Shulchan Aruch* Y.D. 113:6.

^[56] *Shulchan Aruch* Y.D. 113:1.

^[57] *Shulchan Aruch* Y.D. 95:2.

^[58] This means the time it takes one to travel round trip.

^[59] *Pischei Teshuva* 112:6, *Aruch Hashulchan* 18, Kaf *Hachaim* 74.

^[60] *Shulchan Aruch* Y.D. 112:16. One who is careful with *pas yisroel* and now wants to start eating *pas paltar* (not on the road) must be *matir neder* (*Minchas Yaakov* 112:2, *Darhei Teshuva* 112:94).

^[61] *Pri Chadash* 28, *Darhei Teshuva* 95. Refer to *Chochmas Adom* 65:3, *Aruch Hashulchan* 18, Kaf *Hachaim* 73. See *Mishnah Berurah* O.C. 163:3, *Shar Ha'tzyion* 163:3.

^[62] *Betzel Hachuchma* 5:83, *Ahalech Ba'amitecha* 20:footnote 13, see *Minchas Yitzchok* 3:45. Refer to *Chochmas Adom* 65:11.

^[63] *Aruch Hashulchan* 112:18.

^[64] Refer to *Bishul Yisroel* (*teshuvos*) pages 99-100.

^[65] *Pischei Halacha* (*Kashrus*) page 46. Refer to *Kashrus Kurrents* from the *Star-K* (www.star-k.org).

^[66] *Igros Moshe* Y.D. 2:35. Refer to *Emes L'Yaakov* page 308:footnote 45 (be *matir neder* first). See *Minchas Elazar* 4:25.

^[67] Harav *Yisroel Belsky Shlita* in the name of Harav *Yaakov Kamenetsky zt"l*, see *Bais Avi* 4:180:pages 364-365, *Shearim Metzuyanim B'halacha* 38:12. Refer to *Igros Moshe* Y.D. 2:31 (end) who is stringent. The customs of Harav *Yaakov Kamenetsky zt"l* and Harav *Yisroel Belsky Shlita* is to personally be stringent with the above (telephone conversation with Harav *Yisroel Belsky Shlita*).

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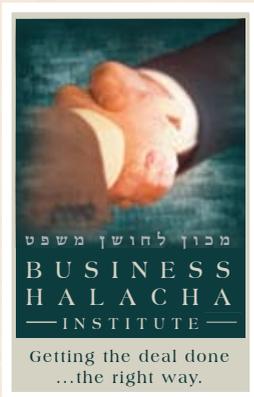
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WHAT TO DO WHEN YOU FIND MONEY IN A VENDING MACHINE

By Rabbi Tzvi Price



Did you ever find money in a vending machine? What did you do? Some people feel that it's their lucky day and they take the money. Others see it as an opportunity to fulfill the *mitzvah* of *hashavas aveidah* and they go to great lengths to find the money's owner. Still others do a little bit of both – sometimes taking the money and sometimes returning it. If asked, it's likely that they would be hard-pressed to explain the set of rules they use to decide what to do when. The fact is that few people really know what *Halacha* requires of them in this matter.

Therefore, a *halachic* treatment of vending machines would not be complete without presenting a clear, authoritative guide to the *halachos* which pertain to finding money in a vending machine. We asked the Business Halacha Institute (BHI)¹, an institute dedicated to increasing the study and awareness of Jewish monetary law, to present for our Halachically Speaking readership these complex *halachos* in a clear and user-friendly way. They did a great job!

The guide was prepared by Rabbi Tzvi Price, a senior member of the BHI faculty, and has been reviewed by the dean of BHI, Rabbi Chaim Kohn, *shlit"á*, a noted Dayan. We're confident that after learning this guide you'll know what to do the next time you find money in a vending machine.

	IF...	THEN...
1	If you came to the machine and found money in the coin return slot or an item (e.g. a gumball, bag of chips, etc....) in the dispensing compartment...	In scenarios #1 and #2 you may keep the money and/or item(s) and in scenario #3 you may gain from the money registered in the machine. However, see the Explanations to Scenarios for the possible exception to this rule when the vending machine services a relatively small and private group of <i>frum</i> people (e.g., a <i>frum</i> , private office, a <i>yeshiva</i> or <i>shul</i> , etc.)
2	The machine is not broken, but when you pressed the coin return button money came out, or you pressed a dispensing button and product came out... OR The machine is not broken, but when you inserted money into the machine, you received your item plus more change than you were supposed to get...	
3	You come to a machine and you find money registered on the screen of the machine...	

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4	<p>The machine is broken (i.e. it keeps giving out coins when you press the coin return, or the product when you press the vending button)...</p> <p>OR</p> <p>You pay for one item and two items come out or too much change comes out due to a malfunction of the machine...</p>	<p>In all circumstances, you may not continue to take more money or product from the machine since that would be considered stealing.</p> <p>The laws of <i>hashavas aveidah</i> apply to the money and/or items that already have been dispensed.</p> <p>Even if you cannot identify the owner of the machine in order to return to him the money or product that has already come out of the machine, you may still use the money or the product, but see 'Explanation to Scenario #4' for further details.</p>
5	<p>You lost money in a machine and you bang the machine to get it out and more money comes out into the coin return than you had put in...</p>	<p>You may keep the extra money. (This doesn't happen too often with the new machines since they are engineered differently than the earlier ones. In any case, one should not mishandle a vending machine since doing so may cause damage to the machine.)</p>
6	<p>You find money on the floor next to the machine...</p>	<p>You may keep the money.</p>
7	<p>You lost your money in a machine...</p>	<p>If you plan on asking for your money back from the owner, then you should do so within a short period of time so as not to forget about the debt.</p> <p>If you do not plan on asking within a short period of time, then it would be best to forgive the debt that the owner has to you and to verbally state your <i>mechila</i>.</p>

EXPLANATIONS TO SCENARIOS

Explanation to Scenario #1:

We will first discuss the case of money in the coin return slot. We can assume that the money was left there by the previous customer. In most of today's machines, the money deposited into the machine goes directly into a non-retrievable compartment. Any money which is dispensed by the machine through the coin return comes from a different compartment and is not the same money that was deposited by the customer. Therefore, in order for the customer to be considered the owner of the money that was deposited into the slot by the machine, he must make a new *kinyan* on the coin(s).

However, the previous customer did not

make a *kinyan* on the money¹. Therefore, technically it does not belong to him. There is a general argument among the *Gedolei Acharonim*² in a case in which a person repays a loan by placing the money in a specified location upon the directive of the lender, and the situation is such that the lender cannot make a *kinyan* on the money. Rabbi Akiva Eiger is of the opinion that the borrower has effectively relinquished ownership of the money and the money is ownerless. The Nesivos Hamishpat disagrees and considers the money to be still owned by the borrower. Their argument has a direct bearing on our case.

Furthermore, in our case of vending machines the owner³ of the machine wants



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his machine upon payment to automatically dispense money into an unguarded, public place. Therefore, he is in effect *mafkir*⁴ the money, making it an *aveida mida'as*⁵. Therefore, with regard to vending machines even the Nesivos Hamishpat would agree that the money dispensed by the machine is ownerless.

However, if the vending machine services a relatively small and private group of *frum* people (e.g., a *frum*, private office, a *yeshiva* or *shul*, etc...) then the money is not being dispensed into a public place. Additionally, it may be the case that the owner of the machine is well-known to everyone who uses the machine. Therefore, the vending machine owner may not view the money that was dispensed by the machine to be 'as good as gone.' In such a situation, it would be proper to ask the owner of the machine what his policy is about money found in the coin return. However, even in this scenario, if *b'dieved* you had taken the money with the intention to own it, you may keep it.⁶

The *halacha* regarding an item such as a bag of chips or a gumball left by the previous customer in the dispensing compartment follows the same basic logic. However, see footnote #6 that explains that taking the item is permitted *l'chatchila* even in vending machines found in *frum*, private locations⁷.

Explanation to Scenario #2:

In these scenarios, we can assume that the previous customer had deposited some money into the machine and then left without buying anything and without retrieving his money from the machine. The second customer inadvertently used the first customer's money to buy an item from the machine or to make the machine dispense different money from the coin return. As we explained in scenario #1, the money placed in the machine by the

previous customer is irretrievable as it falls into a compartment which is separate from the compartment that houses the money for the coin return. Any money or product that will be dispensed to the second customer by the machine due to the first customer's money will not belong to the previous customer since he did not make a *kinyan* on any specific item or on any specific coins. He is simply owed the money by the owner of the machine.

It is reasonable to assume that the owner of the machine does not automatically relinquish his ownership of an object dispensed from his machine except to the customer who deposited the money and has the rightful claim to an item from the machine. Therefore, in this situation the argument between the *Gedolei Acharonim* discussed in scenario #1 does not apply because nothing was dispensed upon the order of the previous customer. The only rationale to allow the second customer to keep the money and/or item(s) that have come out of the machine is the argument that the owner of the machine knows that his merchandise and his coins will automatically be dispensed into an unguarded, public area (as has been explained in scenario #1). As discussed above in the explanation to scenario #1, this rationale may not apply in a *yeshiva*, *shul*, or private, *frum* office setting. In that situation, one should ask the owner of the machine what his policy is regarding the machine⁸.

Explanation to Scenario #3:

This scenario is very similar to scenario #2, except that in this scenario the second customer realized before he pressed any buttons that the first customer had left money in the machine. This scenario follows the same *halachic* rationale as in scenario #2⁹.

In a *yeshiva, shul*, or private, *frum* office setting where *aveida mida'as* may not apply the question would arise whether one would be allowed to use *l'chatchila* the money that is already in the machine to purchase an item. There is a very good rationale to say that the owner of the machine certainly wants that the machine should be used and that people should continue to buy things from the machine. Therefore, the owner wants the person to use the money in the machine to purchase the item; at least that way the machine returns to its normal working order. Obviously, putting the extra money back in the machine would not do anything to solve the problem. Therefore, you are allowed to use the money that is already registered in the machine. Afterwards, you should ask the owner of the machine whether he wants you to pay the full price for the item.

Explanation to Scenario #4:

In this scenario, the owner of the machine is experiencing a loss of which he is not aware and which is very uncommon¹⁰. The lost items are subject to the laws of *hashavas aveida*. The *mitzvah* of *hashavas aveida* applies to cases where the owner of the machine is a *Yehudi*. However, when one can make a *Kiddush Hashem*, one should return the money to an *Akum* as well. If one cannot determine who owns the machine, then *rov*¹¹ determines ownership status.

In this scenario, the rule of *yiush shelo mida'as* will apply because the owner does not know of his loss. An attempt should be made to locate the owner of the machine in order to return the money and/or item(s)¹². If the owner cannot be located, then the standard procedure is to take the object to keep, but to record the item, its value, and any other pertinent details in a register which is kept safe until *Eliyahu Hanavi* tells

us to whom the object belongs¹³.

Explanation to Scenario #5:

As has been mentioned, this scenario only occurs in older machines which keep the money in abeyance until the item has been dispensed. In those machines, there was likelihood that the coins would get stuck in the mechanism. However, in the new machines, the coins are directly deposited into a non-retrievable compartment. In any case, one should not mishandle a vending machine since doing so may cause damage to the machine.

The explanation of the *halacha* is as follows. The money that was stuck in the machine is considered a lost object which has *yiush*. The owner of the machine has not acquired the coins by means of *kinyan chatzer*¹⁴.

Explanation to Scenario #6:

The money does not have a *siman*, and there is *yiush mida'as* because “*adam mimashmaish b'kiso kol sha'ah*.”¹⁵

Explanation to Scenario #7:

Often, a person who loses his money in a vending machine will have in mind that when he'll have a chance he will ask for the money back if he knows who owns the machine. However, after some time he will forget about the owed money. Sometimes, a person will not want to be *mochel* the owner of the machine even though he doesn't know who the owner is and doesn't plan on finding out. In both instances, the owner is put into a difficult situation of owing money but not knowing anything about it. Therefore, it is best to ask for the money within a short period of time so as not to forget, and if you do not plan on asking for the money back, you should say out loud that you are being *mochel* the money.



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(Endnotes)

1. Kinyan kesef cannot acquire coins. Ch.M. 203:4-7
2. See Rabbi Akiva Eiger, Ch.M. 120:1, and Nesivos Hamishpat, 123:1 and see in the new edition of the Nesivos, the Melo'ai Mishpat footnote 72 that discusses this at length and cites the Nesivos Hamishpat, 194:7 to explain the Nesivos's shita in 123:1. See also Toras Gitin, Siman 75. Also see Imrei Binah, Gevivos Chov, Siman 27.
3. Often, vending machines are owned by one party and rented out to another party who actually operates the machine and profits from it. In this article, the term "owner" refers to the party that actually operates the machine.
4. This is the opinion of HaRav Chaim Kohn, Shlit"a. Others have compared this case to a case of yiush, see Bava Metziah 22b "... hani t'marei d'zikah heichi achlinan l'hu..." which demonstrates that a person can have a 'standing yiush' for losses that he knows will inevitably happen though he will not have specific knowledge of any particular one of the losses.
5. See Ch.M. 261:4 and Shach s.k. 3. Also, Ketzos Hachoshen s.k. 1 and Nesivos s.k.1.
6. Since once the money is in his hands, he is *muchzak* and the principle of *kim li* would allow him to rely on the opinion of Rabbi Akiva Eiger.
7. As opposed to coins found in the coin return slot, there is the possibility that in the case of an item found in the dispensing compartment a kinyan kesef is made on the item by the customer (according to halacha, a kinyan kesef cannot be made on coins, but it can be made on other items). Although kinyan kesef usually is not legally binding, in our case of vending machines there is an opinion that kinyan kesef may act to transfer ownership. See Ch.M. Siman 198:1 that states that kinyan kesef is not a legally binding kinyan, but see Aruch Hashulchan 198:4 that states that if the item will not be under the seller's jurisdiction, then kinyan kesef will be binding, also see Sh"ut Machne Chaim, chelek 2, siman 31. However, see Chidushei HaRim, siman 195, s.k. 5, and Sha'ar Hamishpat, 195 who argue.

If a kinyan kesef would apply in the vending machine case then the item would be considered to be owned by the customer and it would be seen as an *aveida mida'as*. The customer certainly must have realized that he did not take the item out of the machine. One has the right to assume that he left it there knowingly. In cases where the customer left a small item such as a gumball or a candy in the vending slot because he was not aware that it had been dispensed by the machine, there would be an issue of *yiush shelo mida'as*. However, normally those items are of insignificant value, *pachos mishavah pruta*, and are exempt from the laws of *hashavas aveida*. The owner of the machine cannot reclaim ownership of the money or item through *kinyan chatzer* because the dispensing compartment is a *chatzer sheino mishtameres* (see Sh"ut Lehoros Nossan, chelek 8, simanim 116-120 and Beis Yitzchak, Orach Chaim, Siman 201, os 3).

Thus, there are two halachically recognized rationales to permit the taking of an item found in the dispensing compartment even in a situation in which a machine is located in a private, *frum* location; the first is the opinion of Rabbi Akiva Eiger cited above in footnote #2, and secondly, this opinion of the Aruch Hashulchan. These two separate arguments create a *sfek-sfeka l'hatir*. HaRav Chaim Kohn, shlit"a, rules that in cases in which the actual item being dispensed by the machine is not being displayed to the customer (as is the case with soda machines) the inserted money does not activate a kinyan kesef on the item that he will eventually receive. Rather, it only serves to obligate the vendor to supply the item. Consequently, the item is not owned by the buyer until he actually takes it into his hands.
8. In this situation, unlike in scenario #1, one should ask the owner even after having taken the money or product since the opinion of Rabbi Akiva Eiger does not apply here.
9. Even in this case the concept of *aveida mida'as* applies since the machine is purposely set-up by the owner to allow anyone to take the item by pressing the button.
10. Thus, as opposed to the previous scenarios, *aveida mida'as* or "t'marei d'zikah" do not apply in this case.
11. Ch.M. 259 and Bava Metziah 24a, Tosfos, *divrei hamaschil* "ki ka'amar Rabbi Shimon"
12. One should keep in mind that the mitzvah of *hashavas aveida* only requires a person to return an item which is more than a *shava pruta* (roughly a nickel). Furthermore, costs incurred by the finder in delivering the lost item to the owner are the responsibility of the owner. Therefore, one would not be required to send fifty cents by mail to the person who lost it since the expenses incurred (envelope, postage stamp) make the actual gain to the owner less than a *shava pruta*.
13. See *Hashavas Aveida K'halacha*, perek 5, halacha 4.
14. See Sh"ut Lehoros Nossan, chelek 8, simanim 116-120, for a lengthy discussion of this case.
15. Ch.M. 260:5

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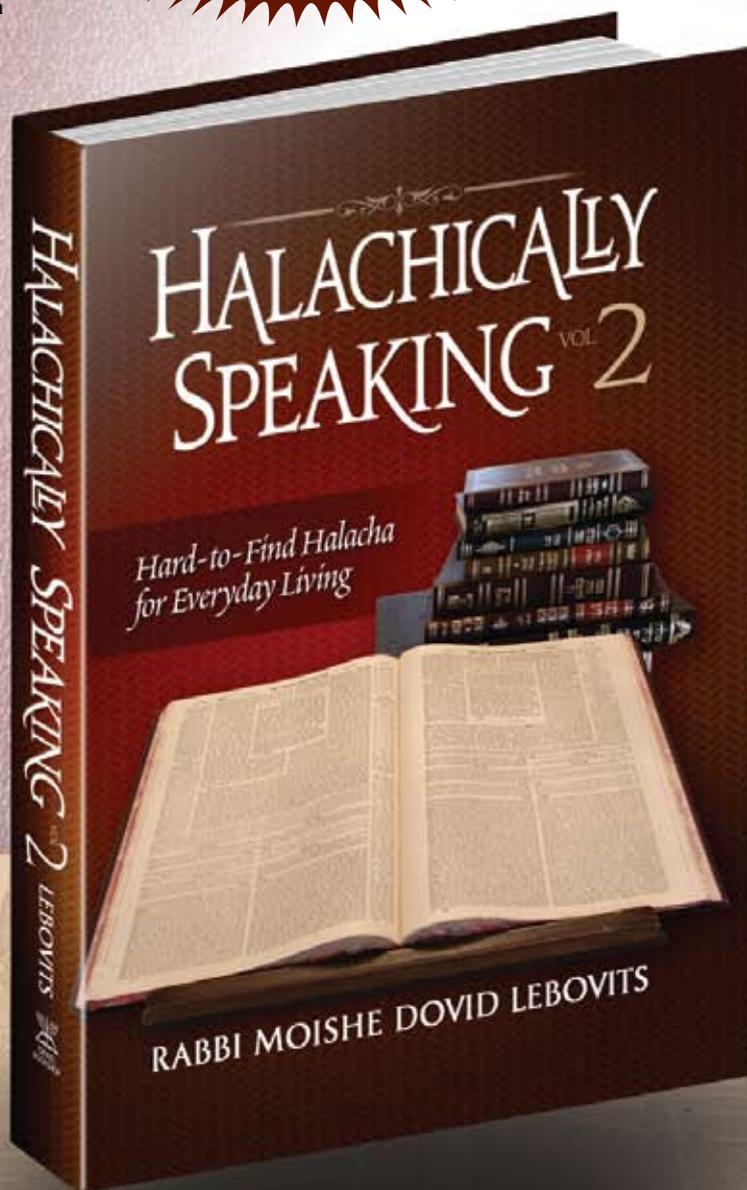
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