

# Buying Chametz in a Supermarket after Pesach

Rabbi Moishe Dovid Lebovits  
Author of Halachically Speaking

Modern food science has given us foods that stay fresh for weeks and even months. Even so, we generally do not face issues of *chametz* left over Pesach since we sell our *chametz* to a non-Jew.<sup>[1]</sup> However, the issue of *chametz* left over Pesach does arise with Jewish-owned supermarkets who do not sell their *chametz*, as well as Jewish food distributors who supply supermarkets. In this issue, we will discuss the issues and possible solutions in this regard, as well as to which foods this issue applies.

## Source

The Mishnah<sup>[2]</sup> says that *chametz* that was owned by a non-Jew over Pesach may be eaten.<sup>[3]</sup> However, if a Jew owned *chametz* over Pesach, it is forbidden to derive any benefit from it.<sup>[4]</sup> This applies to everyone, not just the owner.<sup>[5]</sup> The Gemara<sup>[6]</sup> discusses the parameters of this issue in great detail. We *pasken* like Rav Shimon, who explains that the reason for this prohibition is a *knas*,<sup>[7]</sup> a fine,<sup>[8]</sup> for transgressing *bal yeira'eh*.<sup>[9]</sup> This *knas* applies even if the *chametz* was left accidentally or one had no option.<sup>[10]</sup>

## Forbidden Rabbinically

Only something which is forbidden on a *d'Oraisa* level may not be kept over Pesach. Food that is forbidden rabbinically may be kept over Pesach, and one may derive benefit from it.<sup>[11]</sup> If it is *chametz nuksha*<sup>[12]</sup> some permit eating it as well,<sup>[13]</sup> but the custom is to refrain from eating it.<sup>[14]</sup>

*Chazal* never enacted the *knas* to mixtures that are forbidden on a rabbinic level.<sup>[15]</sup> Therefore, many maintain that if the food has less than a *kezayis* of *chametz* it may be eaten after Pesach.<sup>[16]</sup>

If the *chametz* is less than one-sixtieth of the food but still serves a crucial role in the food, such as a *davar hama'amid*, the *Mishnah Berurah*<sup>[17]</sup> says one should be stringent. However, usually this item contains less than a *kezayis* of the *davar hama'amid* and is therefore permitted.

Since the *knas* is rabbinic in nature, if one is unsure if the item was kept over Pesach, it is permitted to be eaten, according to many *poskim*.<sup>[18]</sup>

## Which Foods

The restriction applies to *chametz* items, which can only be made from these grains: wheat, spelt, barley, rye, and oats. Therefore, breads, pasta, cookies, and pastries are included in this.

*Kitniyos* such as rice, beans, corn and other such foods (see below) need not be sold over Pesach.

## Which Additional Items Are Not Included

The following items may be purchased after Pesach, even if they have not been sold:

Beans, bean sprouts, black-eyed peas, canola oil, caraway, chickpeas, coffee,<sup>[19]</sup> coriander, corn,<sup>[20]</sup> corn syrup, cumin, dextrose, emulsifiers, fennel, fenugreek,<sup>[21]</sup> flax seeds, garlic,<sup>[22]</sup> green beans, kimmel, lecithin, lentils, licorice, lucerne, lupine, millet, mustard, popcorn, poppy seeds, radishes,<sup>[23]</sup> saffron, sesame seeds, snow peas, soy, soy oil, soy beans, starch, stabilizers, string beans, sunflower seeds,<sup>[24]</sup> tea,<sup>[25]</sup> tofu.

Vinegar appears in many food products such as pickles, ketchup, mustard, and mayonnaise. Vinegar is produced when alcohol is fermented. Some vinegars are derived from malt, which is *chametz*, while apple cider or wine vinegar are not *chametz*. Most vinegar is labeled white distilled and can come from any grain. In the United States, vinegar is made from corn alcohol, which is not *chametz*. Therefore, in the United States one would be able to buy products with this ingredient after Pesach.

Even if one does not eat machine matzah on Pesach, he may eat it afterward.<sup>[26]</sup>

Medications and vitamins may be purchased from any store after Pesach.<sup>[27]</sup>

Cosmetics, soaps, and detergents may be purchased from any store after Pesach.

## Jewish-Owned Stores

As mentioned above, the issue of *chametz* which was kept over Pesach only applies to Jewish-owned *chametz*. Most Jews sell their *chametz*, so there is no issue with *chametz* after Pesach. This issue is most relevant with food stores that are owned by Jews who do not sell their *chametz*.

Harav Moshe Feinstein *zt"l*<sup>[28]</sup> held that as long as the Jew has controlling interest it is considered as if he owns it.<sup>[29]</sup>

He was consulted regarding a non-religious Jew who sold his *chametz* to a non-Jew<sup>[30]</sup> but then continued to operate his store on Pesach.<sup>[31]</sup> The question was whether running the

business as usual and buying *chametz* on Pesach would invalidate the sale. Harav Moshe maintained that the written document of sale overrides the intentions of the storekeeper to stay open on Pesach. Therefore, any *chametz* owned by him from before Pesach may be purchased after Pesach. However, there are two important issues. First, any *chametz* which is sold by the store on Pesach is forbidden, since the store owner took the *chametz* from the non-Jew. Second, any *chametz* purchased by the store owner on Pesach is not covered by the sale which was performed before Pesach.<sup>[32]</sup>

Others felt that this sale has no value.<sup>[33]</sup>

Pragmatically, we have no way of knowing if the products on the shelf are from the old stock or were purchased on Pesach. Eventually, most of the *chametz* products in the store's stock will not be an issue. This depends, of course, on the shelf life of each item and the nature of the business. Some small mom and pop stores have fewer deliveries as opposed to large supermarkets. Also, fresh bread has a shorter shelf life than cookies and cereal.

### **Non-Religious Jews**

There is a discussion whether non-religious Jews who do not sell their *chametz* have a status of a Jew or gentile regarding *chametz* which was owned over Pesach.<sup>[34]</sup> The custom is that a non-religious Jew has the same status as a Jew, and his unsold *chametz* is forbidden for religious Jews after Pesach.<sup>[35]</sup>

### **Jewish Manufacturers**

Regarding Jewish manufacturers, the situation is a bit more complex. If a Jewish manufacturer sells *chametz* on Pesach to a supermarket, the *chametz* is forbidden. Even if the manufacturer set up his business as a corporation, Harav Moshe Feinstein *zt"l*<sup>[36]</sup> held that as long as the Jew has controlling interest it is considered as if the Jew owns it.<sup>[37]</sup>

The kashrus agencies who certify these manufacturers operate in various ways. The ideal solution is for the manufacturer to close for the entire Pesach and not produce anything. Others sell the entire company and in essence make the Jew an employee of the non-Jew (who is a temporary owner). Others are not convinced that this would suffice.

### **Jewish Distributors**

Food manufacturers get their products to thousands of stores by selling their products to distributors. The distributors store the products in their warehouses and deliver them to the stores. There are thousands of food distributors across the USA. If a Jewish distributor

does not sell his stock, the products are prohibited after Yom Tov. A few distributors are Jewish owned. One specific example is C&S Wholesale Grocers, which is one of the largest privately owned companies in the USA.<sup>[38]</sup>

Harav Yisroel Belsky *zt"l* composed a *shtar* to sell the *chametz* of C&S and the sale is handled by this author (KOF-K Kosher Supervision) and Harav Belsky's *beis din*.<sup>[39]</sup>

It is possible to buy from stores that are serviced by such distributors by calculating which products were distributed during and after Pesach. This may be a challenge.

### **The Lenient Approach**

There is room to be lenient regarding those stores whose only concern is a Jewish distributor, based on the following: The *issur* of eating *chametz* which was owned over Pesach is rabbinic in nature. We have no real way of knowing if the *chametz* on the shelf is from stock before Pesach or from on Pesach. Therefore, if one is in doubt, it is a *safek* (doubt) regarding a *rabbanan*, which is permitted.<sup>[40]</sup> This may be different with a mom and pop store where products tend to stay on the shelf longer, and perhaps they were in stock from before Pesach as well.

### **The Common Practice**

Others are not willing to rely on this leniency, as today's markets have a rapid turnover. Therefore, we can assume that products on the shelves were bought during Pesach. Therefore, one should wait until Lag B'omer to buy from these stores.<sup>[41]</sup> Until this time, one should only buy from a Jewish-owned store which sold their *chametz*<sup>[42]</sup> (these stores usually do not get products from distributors who operate on Pesach<sup>[43]</sup>).

Liquor has a very long shelf life. Therefore, if there is any concern, one should wait until Shavuot before buying from a store which did not sell their *chametz*.

### **Stocking Up or Buying from a Supermarket**

An interesting question arises if one should stock up before Pesach and sell the *chametz* to a non-Jew so he has it after Pesach, or if it is better not to have it in his property before Pesach and rely on the lenient opinion above. One should not buy from the supermarket if he does not know if the *chametz* was from Pesach even if he will save a few dollars. This is especially true since it is not hard to buy from a store which is Jewish owned and sold its *chametz* per halachah and was closed on Pesach.

In regard to a *frum*-owned supermarket, some allow the store to stock up on *chametz* from their non-religious distributors before Pesach and sell it to the non-Jew. This way the store owner accomplishes two things. First, he does not have to worry about the possibility of receiving *chametz* from a distributor who did not sell properly. Second, he can supply his customers with *chametz* products immediately after Pesach.<sup>[44]</sup>

### **Buying from Supermarkets after Pesach<sup>[45]</sup>**

There is no issue with the stores listed below regarding the requirement of selling their *chametz*. However, the distributors may be an issue, since some Jewish distributors supply these stores (with the exception of those which are known to sell their *chametz*). The lenient approach would permit buying from these stores after Pesach, but one should be stringent as mentioned above.

#### **BJ's Wholesale Club**

**Costco**

**CVS**

**D'agostino Supermarkets**

**Duane Reade**

**Giant Foods** – get from C&S

**Gristedes Foods**

**Key Foods**

**King Kullen**

**Kmart**

**Kroger** – get from C&S

**Price Chopper**

**Publix**

**Rite Aid**

**Safeway**

**Seven-Eleven**

**Shoprite** – Their *chametz* is sold but they still buy and sell throughout Pesach.<sup>[46]</sup>

**Stop and Shop** – get from C&S

**Target** – get from C&S only frozen, dairy and produce.

**Trader Joes**

**Walgreens**

**Walmart (Sam’s Club)**

**Wawa**

**Wegmans**

**Winn Dixie** – get from C&S

---

<sup>[1]</sup> See *Sha’arei Yemei Pesach* 3:12.

<sup>[2]</sup> *Maseches Pesachim* 28a.

<sup>[3]</sup> *Shulchan Aruch* 448:1; *Shulchan Aruch Harav* 2.

<sup>[4]</sup> *Shulchan Aruch* 448:3; *Mishnah Berurah* 25. If one did a *bedikah* and *bitul*, see *Mishnah Berurah* 25 (and 442:1) if there is a great need. Also see *Maharam Shik*, O.C. 219; *Yad Yitzchak* 2:275; *Imrei Yosher* 1:23; *Avnei Nezer* 348.

<sup>[5]</sup> *Shulchan Aruch Harav* 448:1; *Aruch Hashulchan* 7. See *Yechaveh Da’as* 3:28.

<sup>[6]</sup> *Maseches Pesachim* 28b-29a.

<sup>[7]</sup> The *knas* is on the *chametz* itself (*Shalmei Moed* page 7).

<sup>[8]</sup> *Maseches Pesachim* 29a; *Magen Avraham* 448:3; *Mishnah Berurah* 7. See *Rashi, Maseches Pesachim* 29a “*l’olam*”; *Ritva*. Refer to *Chasam Sofer*, O.C. 124; *Rivevos Ephraim* 1:325:1.

<sup>[9]</sup> *Rashi, Maseches Pesachim* 28a “*b’Gemara*.”

<sup>[10]</sup> *Rambam, Hilchos Chametz U’matzah* 1:4; *Shulchan Aruch* 448:3; *Kitzur Shulchan Aruch* 114:3. See *Biur Halachah* “*afilu*.” See *Chok Yaakov* 448:20; *Aruch Hashulchan* 5; *Mishnah Berurah* 9, 25.

<sup>[11]</sup> *Shulchan Aruch* 447:12.

<sup>[12]</sup> *Chametz nuksha* is *chametz* that had something wrong with its fermentation; either it did not become completely fermented, or it was not of quality for human consumption (only edible *b’sha’as hadchak*).

<sup>[13]</sup> See *Magen Avraham* 447:46.

<sup>[14]</sup> *Chok Yaakov* 447:53; *Elyah Rabbah* 46; *Shulchan Aruch Harav* 442:20; *Mishnah Berurah* 447:107; *Sha’ar Hatzion* 183.

<sup>[15]</sup> *Maseches Pesachim* 30a, *Rashi* “*aval*”; *Mishnah Berurah* 447:101; *Aruch Hashulchan* 42. See *Magen Avraham* 447:42.

<sup>[16]</sup> *Mishnah Berurah* 442:1, 447:101.

<sup>[17]</sup> 442:27.

<sup>[18]</sup> *Taz* 449:1; *Chok Yaakov* 1, 448:4; *Maharshag* 2:98; *Natei Gavriel Pesach* 60:footnote 19; *Igros Moshe*, O.C. 4:96. Refer to *Mishnah Berurah* 449:5.

<sup>[19]</sup> Refer to *Sha’arei Teshuvah* 453:1; *Minhag Yisrael Torah* 2:pages 213-214. See *Tov Ayin* 9:6.

<sup>[20]</sup> *Mishnah Berurah* 453:4; *Aruch Hashulchan* 3.

<sup>[21]</sup> OU document P-77.

<sup>[22]</sup> Refer to *Chayei Adam* 127:7; *Da’as Torah* page 119; *Minhag Yisrael Torah* 2:page 214.

<sup>[23]</sup> *Chayei Adam* 127:7; *Kaf Hachaim* 20; *Natei Gavriel Pesach* 2:39:7. Refer to *Minhag Yisrael Torah* 2:page 213.

<sup>[24]</sup> Refer to *Mishnah Berurah* 453:11; see *Da’as Torah* page 118.

<sup>[25]</sup> *Sha’arei Teshuvah* 453:1.

- [26] *Natei Gavriel Pesach* 60:16.
- [27] *Halachah Shel Pesach* 6:2:9; *Natei Gavriel Pesach* 60:10; *Chok Yaakov* 466:1; *Sha'ar Hatzion* 466:4; *Kaf Hachaim* 8.
- [28] *Igros Moshe, E.H.* 1:7 (end).
- [29] See *Zecher Yitzchak* 8.
- [30] *Igros Moshe* 1:149, 2:91. See *Igros Moshe, O.C.* 4:95; *Shulchan Halevi Hebrew* 1:page 129. Refer to *Seridim* 19:pages 7-13.
- [31] See *Yesodei Yeshurin* 6:pages 236-239; *Rivevos Ephraim* 6:440:2; *Teshuvos V'hanhagos* 1:288.
- [32] *Igros Moshe, O.C.* 2:91; *Shulchan Halevi Hebrew* 1:pages 128-129. See *Chelkas Yaakov, O.C.* 194.
- [33] Opinion of Harav Yosef Ber Soloveitchik *zt"l*, quoted in *Mipeninei Harav* page 102:2. See *Teshuvos V'hanhagos* 3:116.
- [34] See *Magen Ha'elef* 448:7; *Sedei Chemed, Chametz* 9:1; *Har Tzvi* 2:46; *Mishneh Halachos* 3:54; *She'arim Metzuyanim B'halachah* 114:20; *Halachah Shel Pesach* 5:1:35-36. This can be very relevant regarding buying liquor from a non-religious store or company. See *Mishneh Halachos* 3:54.
- [35] *Kitzur Shulchan Aruch* 114:7, 13; *Aruch Hashulchan* 448:1; *Yechaveh Da'as* 3:28. One can't sell his own *chametz* to a non-religious Jew either (*Aruch Hashulchan* 448:1).
- [36] *Igros Moshe, E.H.* 1:7 (end).
- [37] See *Zecher Yitzchak* 8. Refer to *Journal of Halachah and Contemporary Society* 8, pages 93-98.
- [38] Krasdale and Hain Celestial Group are also owned by Jews.
- [39] Not only does this sale include the existing *chametz* but they sell the division of their operation which purchases new *chametz* during Pesach as well.
- [40] See *Igros Moshe, O.C.* 4:96.
- [41] Opinion of Harav Yisroel Belsky *zt"l*, brought in *Shulchan Halevi Hebrew* 1:pages 128-129. See *Natei Gavriel Pesach* 60:9.
- [42] *Sha'arei Yemei Pesach* 3:12. Refer to *Shulchan Halevi* 1:page 129 about those who only buy after Pesach from stores who bought everything from after Pesach and do not rely on the sale of the *chametz* to a non-Jew. See *Sedei Chemed Chametz U'matzah* 9:20; also see 9:15; *Kinyan Torah* 7:39; *Chut Shani Pesach* page 111; *Sha'arei Yemei Pesach* 3:12:7-9; *Teshuvos V'hanhagos* 1:309, 5:112-113; *Halachah Shel Pesach* 6:2:footnotes 46-47, 50; *Halichos Shlomo Moadim* 6:9:footnote 13; *Natei Gavriel Pesach* 60:3. In relation to selling *chametz* in general, see *Tosefta, Maseches Pesachim* 2:12-13; *Beis Yosef* 448; *Rambam, Hilchos Chametz U'matzah* 4:6-7; *Shulchan Aruch* 448:3-4; *Machatzis Hashekel* 448:3; *Bechor Shor, Pesachim* 21b; *Massei Rav (Gra)* 180; *Chasam Sofer, O.C.* 113; *Aruch Hashulchan* 448:12-13; *Igros Moshe, O.C.* 1:150; *Yad Moshe* pages 25-26; *Ohr L'tzion* 3:9:1; *Nefesh Harav* page 177; *Hamoadim B'halachah* page 303.
- [43] *Shulchan Halevi (Hebrew)* 1:page 129.
- [44] *Lehoros Nassan* 4:37. See *Shevet Halevi* 4:49.
- [45] All the information below is from the Survey of US Grocery Scene with Relevance to Purchase of *Chametz* after Pesach.
- [46] Survey of US Grocery Scene with Relevance to Purchase of *Chametz* after Pesach.