

DOUBLE TROUBLE IN SEALING

SAFEGUARDING FOOD IN GENTILE HANDS

Avodah Zarah 39a discusses kosher food delivered by a non-Jew or stored by him and what identification is necessary to guarantee the kashrus of the food. Chazal preserved the relevant rule with an acronym. Acronyms were used to document *halachos* which were forbidden to be recorded in writing in full words (due to the then prohibition of writing *Torah Shebe'al Peh*) and one only had to memorize what the initials represented. Rav taught that חבי"ה was forbidden with only a single seal, but חמפ"ג is permitted with a single seal. After some discussion, the Gemara concludes that חבי"ה stands for four commodities: a slice of fish, meat, wine or *techeles*. It is forbidden to send any one of these four items to another Jew through a non-Jew with only one seal, since there is the concern that the non-Jew might take the trouble to break the seal, substitute something inferior for the sent item, and then reseal it. These items are permitted only if sent with two seals, so that it would not be worth his while to have the extra bother of performing a double forgery. The second acronym חמפ"ג stands for *chiltis* (leaves cut with a non-kosher knife), *muryas* (fish sauce), bread and cheese. We shall see why these items require only one seal, but first let us consider the practical implications of these *halachos*.

DIFFERENCE BETWEEN THE TWO GROUPS

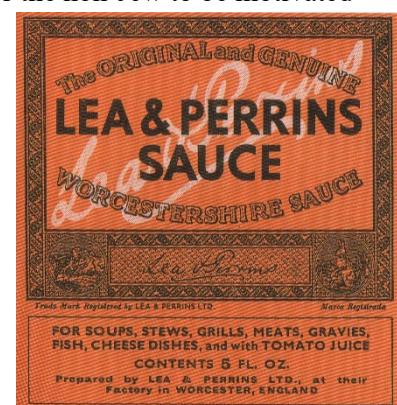
We find three approaches in explaining the logic why the first group needs two seals, whereas the second group suffices with one seal. Rashi explains that the first group constitutes expensive items, and the non-Jew stands to profit by substituting cheaper alternatives. The bother of refabricating a double seal reduces any benefit gained from the substitution. The cheaper items in the second group would not generate sufficient gain to make him bother to forge even one seal. Tosafos and Ran explain the difference as between items which are inherently forbidden and products that are forbidden because of what might have been mixed with them. Rambam and Rashba attribute the two-seal requirement to any product which may be forbidden if switched by Biblical law, but only one seal is required for items unfit only Rabbinically (*Rambam, Hilchos Maachalos Asuros* 13:10, *Rashba, Toras HaBayis* 4:2). Wine is included in the first group needing two seals even though its prohibition is only Rabbinic, because of an idolater's passion to perform a libation. These varying reasons may make a practical difference in determining the *b'dieved* kashrus status in situations where the rules were not followed and there was inadequate sealing. *Shulchan Aruch* follows the Rambam, differentiating between Biblical and Rabbinic prohibitions (*Yoreh De'ah* 118:1).

GEZEIRAH OR PRECAUTIONARY RULING

There is a debate in the *poskim* whether the sealing requirement was a *gezeirah*, a Rabbinical decree – a *davar she'beminyan*, or Chazal provided practical guidance to avoid consumption of forbidden foods. The reason advanced by the Rambam differentiating between Biblical and Rabbinic prohibitions would appear to point to it being a decree. In that case there is little room to be lenient when circumstances indicate that it was highly unlikely for the non-Jew to switch the product, but according to Rashi, who explains that we look at the level of benefit gained from switching, then it would be logical to permit an inexpensive item, or an item that offers the non-Jew minimal potential gain, that had been inadvertently sent unsealed. This debate permeates the different approaches of *poskim* when faced with questions regarding situations where there was inadequate sealing during the transportation or storage and the Rav has to decide whether the food is permitted. In general, the *poskim* insist on proper sealing as in *Shulchan Aruch*, notwithstanding the unlikely chance of the non-Jew switching the food because perhaps it is a blanket *gezeirah* or it follows one of the alternative approaches of the *poskim*. However, in a *b'dieved* situation, the Rav will look at the particular circumstances and adjudicate leniently on the basis that it is highly unlikely for the non-Jew to be motivated to switch the food.

THE FIRST COMMERCIAL HECHSHER

The *Rashba* considers whether it should be permitted to *l'chatchilah* send items without seals in situations where there is no benefit to the non-Jew from any switching. He draws from the incident related on *Avodah Zarah* 34b where a cargo of *muryas* arrived in the port of Acco and the local Rav, Rabbi Abba of Acco, sent *mashgichim* to supervise the transportation, to ensure that part of the *muryas* was not switched with wine, which was much cheaper. It is fascinating to note that this is probably the earliest recorded Rabbinical certification of a commercially produced food product. Interestingly, *muryas* has survived as a commercial product in the modern kitchen as Worcester Sauce, which was manufactured in Worcester, England in the nineteenth century, based on an old Indian recipe. It was made from salted fermented anchovy fish as a main



ingredient and matured for many months in spices and vinegar. The Meiri (34a) describes it as *kutach* sauce, which helps us understand the attraction of the oft-mentioned *kutach*. Its basic kashrus status was not a concern as it was always only made from kosher fish, so the *hashgachah* was needed solely to safeguard against possible adulteration of the sauce by switching some of it for cheaper wine. The Rashba points out that the sauce arriving in Acco was only permitted as it was a *b'dieved* situation, but *l'chatchilah* it should have been transported sealed if it was intended for Jewish consumption, since we need to be concerned about switching even if the non-Jew gains nothing (*Teshuvos HaRashba* 1:761). This is one of the sources for *poskim* insisting on full sealing even where the risk of adulteration or switching is very low. Kaf HaChaim assembles more than sixty authorities who debate the issue of whether we are concerned about switching even where there is no personal benefit and whether the non-Jew would do it out of spite. Therefore, in a *b'dieved* situation where the required protocol had not been followed, many *poskim* will rule that the food is permitted.

DELIVERING WINE

Let us illustrate how the varying approaches of the *poskim* play out with one of the most common situations that arise with wine bottles. We explained the two-seal requirement for wine stemming from the idolater's passion to make libations. The Erech Shai (*Yoreh De'ah* 118:1) argues that even though that passion is not found nowadays, if it was a decree historically, that *gezeirah* stays in place. Other *poskim*, who are inclined towards the logical approach, may want to permit wine with a single seal because the passion reason is no longer relevant. Even if the wine was *mevushal* or pasteurized and there will be no concern for that passion when sending unsealed bottles with a non-Jew, there remains the concern that he may switch it for non-kosher wine.

TIGHTLY PULLED COVER

We also need to consider what type of seal is required. Typically, a wine bottle is sealed with a cork plus a plastic or aluminium covering embossed with an identifying symbol, which together should constitute two seals. Perhaps the covering itself constitutes two seals if it has lettering on it as well. However, some *poskim* argue that a cork can be successfully removed with a tool and be replaced, and thus cannot be regarded as a seal at all. There is a precedent for a tightly pressed cover being considered a seal in our Gemara's case of a basket that is overturned on top of a barrel that is sealed with another cover affixed to it with clay. For the basket, which is not affixed with clay, to be considered a second seal, it needs to be pulled tightly over the barrel. This is similar to the cork pressed into the bottle top. On this basis, many *poskim* regard any food packaging which requires much effort to open and close again, is regarded as a single seal (*Kashrus V'Hechsherim K'Halachah* by Rav Yeruchem Fishel Adler, p. 118). The question is how easy is it to replace the cork?

CORK REMOVERS

The addition of brand lettering and logo on the cork may help, because if the cork gets punctured when it is removed it will be difficult to find a replacement. One must ignore the letter "A" printed on the cork because that is printed by the cork company to designate the quality of the cork. Although it may be possible to duplicate the logo and print a new cork, the amount of effort needed for that may not make the switch worthwhile. On the other hand, where large quantities are involved, we would be concerned that it would be worthwhile to forge fake copies. Regular cork removers including vacuum based ones pierce a hole in the cork, so any tampering will be noticeable. There is a cork remover known as the "Ah-So" device, which is able to lever out a cork without damaging it. Thus, it may depend on the likelihood of the availability of that device, which is not common. Even if the wine is very expensive, the commercial value of wine outside its bottle is very low. In the case of a bottle that had its outer covering removed leaving just the bare cork, *poskim* would have much justification to rule the wine permitted in a *b'dieved* situation, despite the lack of two seals.



The "Ah-So" cork remover

GENTILE ALONE IN THE HOME

Parallel *halachos* of single and double seals apply to sealing of food, wine and dishes at home where a non-Jew has been left alone, knowing that the householder will not return for a few hours. Cupboards with food and dishes should be sealed and food left in an unlocked fridge may be permitted if the householder can specifically identify the food with *teviyas ayin*, recognition of the eye, such as the shape or layout of the food (*Ohel Yaakov, siman 118*, p. 504). Acute problems can arise where a disabled person resides alone with his non-Jewish carer and a Rav must be consulted. One possibility is to install video cameras monitored externally, and even if there is irregular monitoring, that is sufficient to instil sufficient fear to prevent food substitution (*Ezrah K'Halachah* by Rav Yosef Shlomo Beifus, p. 132). Much depends on the knowledge of the home helper regarding the movements of the owner and many wish to rely on not telling him when he expects to return, but that does not work for regular long-term absences.