

ספירימ

סיוע לציבור, פסקי הלכה, רכיבים, מארעות ומדע
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סיוע לציבור
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Benedictine

Centuries ago a monk created a flavored whisky (i.e. a liqueur) that contained a blend of 27 herbs and spices, and the beverage was produced by his successors for a few hundred years. Production was stopped around the time of the French Revolution, and it wasn't until the late 19th century that a French wine merchant discovered the recipe and began manufacturing the drink once again. Although the merchant built a cathedral-like building to house his factory (which is still in use to this day) and named the beverage "Benedictine", the production is not connected to any religious order. Many years later, a bartender created a blend of Benedictine and brandy which consumers appreciated, and in recent years the Benedictine company began producing an "official" version of that mix, which they call "B&B" (for Benedictine and Brandy). B&B is clearly not kosher as it is made with brandy.¹ We will now focus on whether Benedictine is acceptable.

The reason for concern is that many websites claim that Benedictine is a brandy-based liqueur.² When we asked the company if there was any basis to these rumors, they responded³ that:

Bénédictine is NOT brandy-based -Definitely not. Bénédictine contains exclusively Beet-root alcohol, Water, Sugar, Caramel and Botanicals (no colouring added). No wine, no brandy so, no grape origin, no dairy and no animal derivatives.

Should we assume that a company actually using brandy would proudly brag about that fact since brandy is perceived to be superior to beet-root alcohol, or should we be concerned that they have some ulterior motive for not being candid?

¹ Brandy refers to wine which is concentrated through distillation to produce a wine-based whisky. Unless brandy is produced under special conditions, it is not kosher as *stam yayin*.

² See for example <http://en.wikipedia.org/wiki/B%C3%A9n%C3%A9dictine> , <http://www.samcooks.com/savor/benedictine.htm> and <http://cocktails.about.com/od/liqueurscordials/g/benedictine.htm>.

³ Personal communication with the author on September 20, 2007.

The halachic principle of *אומן לא מרע אומנתו* would appear to support taking a lenient approach and accepting the company's statement, but this requires further research.⁴

Two additional factors add to the intrigue:

1. The most recent *Lubavitcher Rebbe zt"l* was known to serve Benedictine at his *tisch*, but then he unexpectedly stopped the practice.
2. A number of *hashgachos* specifically list Benedictine as being unacceptable,⁵ while Rav Landau of B'nei Brak is reported to permit it and many fellow *Lubavitchers* (and others) accept this ruling.

After a few weeks of investigating, we found a person who appears to be at the center of this question. His name is Rabbi Shlomo Msika of Paris and he's considered an expert in the field of the *kashrus* of liqueur.

He reported that in 1978 he visited the Benedictine factory to investigate its kosher status. During his visit he was surprised to learn that the company had purchased a cognac⁶ producer and was considering tinkering with the Benedictine formula by blending in a small amount of cognac (<5%). [All other ingredients were found to be of no *kashrus* concern].⁷ Obviously, this raised a concern and (a) he removed Benedictine from his local Va'ad's list of acceptable liqueurs and (b) as a loyal *Lubavitcher Chassid*, he reported his findings to the members of the *Rebbe's* entourage (and this information likely had some hand in the decision to remove it from the *Rebbe's tisch*).

⁴ See *Iggeros Moshe* Y.D. I:55 for guidelines as to when one may accept a company statement as fact.

⁵ See <http://www.star-k.org/cons-appr-liquor.htm> and http://www.theus.org.uk/jewish_living/keeping_kosher/keeping_kosher/kosher_product_search (and search for "Benedictine").

⁶ Cognac refers to brandy produced in the Cognac region of France.

⁷ All whisky bottlers have another issue, which is that the same equipment might be used to bottle kosher, non-kosher and *stam yayin* liquors. In the case of Benedictine, the issue is even more complex because the company is known to bottle a non-kosher product, B&B. However, there are a number of reasons as to why this isn't a concern, as least on the *b'dieved* level, but that topic is beyond the scope of this discussion.



A few years ago, he once again visited the factory and revisited the issue with a number of plant employees. The plant administration told him that the aforementioned plan to mix in brandy was never actualized, and they even allowed him to confirm this by reviewing the Benedictine formula on the company computer. Other plant employees, including those who didn't appear to understand the significance of their statements, corroborated this claim. Although Rabbi Msika continues to not list Benedictine as an acceptable liqueur, he personally is convinced that it is not made with brandy/cognac.

In addition to this information, Rabbi Moshe Dovid Gutnick (Sydney, Australia) pointed out that our case seems to qualify for the leniency discussed in *Rema* Y.D. 114:10 who rules that in specific cases one doesn't have to be concerned that a product contains an *issur d'rabannan* such as *stam yayin* (see also *Iggeros Moshe* Y.D. I:62).

Rav Schwartz was inclined to agree that halachically the product is permitted, but acknowledged that there are those who may choose to more particular and avoid the beverage due to the persistent rumors that it contains *stam yayin*.



Gevinas Yisroel on Acid-set Cheeses

Part 1 of 2

Cheese is created when the casein (a protein) separates from the other parts of the milk. The two basic ways to make this happen are with rennet or with acid. The rennet or acid causes the casein and some other items to separate from the rest of the milk (a.k.a. the whey), and the newly formed item – known as curd – is further processed to become what we know as cheese. Although both methods remove casein from milk, they don't work in the same manner,⁸ and the curds produced by the two methods are quite different from one another. As a rule, milk curdled with rennet creates "hard" cheeses such as mozzarella, Muenster, pasteurized process

⁸ Rennet reorganizes the casein molecules such that they are attracted to one another and form a mass (in which fat and other items are trapped) while acid lowers the pH to the point that the casein can no longer remain in the milk solution.

(i.e. American cheese) and Swiss cheese, and acid-set cheeses are typically "soft" cheeses such as cottage cheese and cream cheese.

Traditionally, rennet was derived from the calf stomachs, and *Chazal* forbade a non-Jew's cheese as *gevinas akum* because of a concern that the cheese might be set with rennet from an animal that didn't have *shechitah* (i.e. a *neveilah*).⁹ It's clear that this prohibition includes all of the rennet-set cheeses, but there is much discussion in the *Poskim* as to whether it includes acid-set cheeses as well.

Quite a number of *Poskim* hold that the *issur* of *gevinas akum* includes all forms of cheese including acid-set cheeses.¹⁰ However, the accepted custom in the United States is to follow the lenient opinion which argues that acid-set cheeses were never included in the *gezairah* because those cheeses curdle without rennet (and sometimes without the addition of any coagulant at all – see below) such that there's no reason to be concerned that *neveilah* rennet will be used.¹¹

Acid-set cheese that uses rennet

Modern methods of cheese production have raised a further question within the lenient opinion. Nowadays, it is quite

⁹ *Shulchan Aruch* 115:2.

¹⁰ See the coming footnote.

¹¹ The following are some of the known opinions:

- *Shevet HaLevi* IV:86 holds that this issue, as described in the text, is a *machlokes* between *Pri Chadash* (115:21) who is lenient, and *Responsa Radvaz* (VI:2,291) & *Responsa Chasam Sofer* (Y.D. 79) who are *machmir* (all of these *Poskim* appear to be discussing ricotta cheese).
- *Chochmas Adam* 53:38 and *Aruch HaShulchan* 115:16 (end) rule that cheese made without any *ma'amid* is *gevinas akum*, which seems to clearly be adopting the strict opinion. See more on *Aruch HaShulchan's* opinion below.
- *Kaf HaChaim* 115:49-50 suggests a proof from *Beis Yosef* 115 (end, cited in *Taz* 115:14) that yogurt requires *gevinas Yisroel*, but *Dagul Mirvavah* (to *Taz*) understands *Beis Yosef* in a completely different manner which negates the proof. See also *Kaf HaChaim* 115:46-48 (regarding Ricotta)
- *Iggeros Moshe* Y.D. II:48 explains the lenient position (and that is the basis for the explanation given in the text) but seems to personally reject that position (although he says that one shouldn't protest those that accept it).
- Other *Acharonim's* opinions regarding ricotta cheese are cited in *Darchei Teshuvah* 115:30.
- The accepted American practice is to follow the lenient opinion, and it is likely that this is based on a ruling by Rav Henkin zt"l to that effect. The ruling wasn't given in writing, but was reported by Rav Schwartz from Rabbi Shraga Feivel Greenstein zt"l (of Newark, NJ) who transmitted it from his *Rebbi*, Rav Henkin zt"l.

We have noted *Aruch HaShulchan's* apparent adoption of the strict opinion. How then are we to understand *Aruch HaShulchan* 115:20 (and 115:28) which implies that he is lenient? His wording in this latter halacha implies that he holds that any coagulated product referred to as "cheese" requires *gevinas yisroel* but those referred to by other names are included in the class of dairy items known as "butter" which are not forbidden as *gevinas akum*. It is also possible that this is the intention of *Chasam Sofer*, as opposed to *Shevet HaLevi's* explanation cited above. According to this explanation, cottage cheese and cream cheese might require *gevinas Yisroel* since they are called "cheese", but Paneer, sour cream, Skyr and yogurt wouldn't (just like butter doesn't) as their name doesn't include the word "cheese". The text does not follow this explanation.

common for manufacturers of acid-set cheese to add a bit of rennet into the milk to speed up the cheese-making process and to produce a somewhat firmer end product. Does that change the cheese's status to that of rennet-set cheese? *Iggeros Moshe* [who explains the lenient opinion without wholeheartedly accepting it] rejects this for two reasons:

- So little rennet is used that it has no affect on the finished product other than to speed up a process that would happen naturally.
- Even if the rennet plays some role in the cheese's coagulation, it is a supporting role which qualifies as **זה וזה גורם** and can be discounted.

Discussions with professional cheese makers supports this distinction, as they tell us that rennet-set cheeses typically use 70-90 ml. of rennet per 1,000 pounds of milk, while acid-set cheeses will use about 1-2 ml. of rennet for the same quantity of milk. [More details on this are presented below]. These experts further say that the 1-2 ml. of rennet used couldn't possibly cause true coagulation of that much milk and would just create a bit of gelling. This surely qualifies for *Iggeros Moshe's* second reason and possibly even for the first.

Based on this line of reasoning, non-Jewish companies regularly produce cottage cheese and other acid-set cheeses and are certified as kosher without any form of *gevinas Yisroel*, even though some rennet is used in the process.



Fenugreek for Pesach

Although most consumers would never suspect it, it seems that it is quite common to use fenugreek in the creation of maple flavors. Fenugreek is an inherently kosher item which doesn't pose year round *kashrus* concerns, and this article will consider whether it should be classified as *kitnios*.

Colloquially, the term "*kitnios*" refers to a group of foods which *Ashkenazim* refrain from eating on *Pesach*, but the truth is that the term precedes the custom. As relates to *hilchos kilayim*, vegetables are divided

into two groups – *zaronei gina* and *kitnios*.¹² The former refers to foods where one eats the seed and flesh (e.g. cucumber, tomato) or just the flesh (e.g. green pepper) and the latter refers to foods where just the seed is consumed (e.g. beans, sesame seeds).¹³ There is a subclass of this latter group known as *tevuah*, which refers to grains (e.g. wheat, barley), a specialized form of *kitnios*.¹⁴

It is reasonable to assume that the early *Acharonim* who established the *Pesach minhag* had this definition of *kitnios* in mind when they recorded the custom to not eat "*kitnios*". If we take this approach to its logical conclusion, fenugreek would be forbidden on *Pesach*, as the edible portion of the fenugreek plant is, in fact, the seed. Further, a prominent *Posek* who accepts this strict opinion points to *Rashi* (*Beitzah* 13a s.v. *tilsan*) who states that *tilsan*/fenugreek is a form of *kitnios*. Of course, *Rashi* isn't discussing the *minhag* to not eat *kitnios* on *Pesach* (which started hundreds of years after his death), but the argument is that just as *Rashi* classifies fenugreek as *kitnios* for the purposes of the *Gemara* he's discussing, so should we for our purposes.

However, there is a clear indication that the *minhag* to not eat *kitnios* on *Pesach* is not as bound to the literal definition of that term as has been suggested above.

*Rema*¹⁵ rules that anise and coriander aren't included in the *minhag* of *kitnios*. These spices are similar to fenugreek in that only the seed is consumed so why aren't they forbidden? *Darchoi Moshe*¹⁶ enigmatically addresses this issue by referring the readers to *Tur* O.C. 204, which is the section that discusses the *berachos* recited before eating food, and appears to be unrelated to *hilchos Pesach*. However, further analysis shows that in that location *Tur* rules that if one consumes foods which grow in the ground the *bracha* is *ha'adamah*, but the *bracha* recited before eating spices by themselves (i.e. not as an accompaniment to another food) is *shehakol* since that is not the typical way to eat them. It appears that

¹² This, and much of the text in this paragraph is based on *Rambam, Hil. Kilayim* 1:8 (as per *Derech Emunah (Beor HaHalacha)* s.v. *zera*) which is cited in *Shulchan Aruch* Y.D. 297:3.

¹³ See the previous footnote.

¹⁴ See *Derech Emunah, Hil. Kilayim* 1:45.

¹⁵ *Rema* 453:1.

¹⁶ *Darchoi Moshe* 453:2.

Darchei Moshe means to show from *Tur* that just like spices have a different *bracha* than other foods because they aren't consumed by themselves, so too they are different than other "*kitnios*" and aren't forbidden on *Pesach*. The logic for such a position would be that one reason for the *minhag* of *kitnios* is that those foods can be confused with the *chametz* grains, and since spices are rarely eaten by themselves they are sufficiently different than grains (which are commonly consumed as an independent food item) and wouldn't be confused for them.

According to this approach, *Rema's* ruling permitting anise and coriander on *Pesach* is really a broader exclusion of all spices from the *minhag* of *kitnios*.

Let us now apply this principle to fenugreek. Although there are those who believe there is medicinal value to consuming pure fenugreek and there may be indications that it was consumed as-is in the times of the *Mishnah*,¹⁷ in the overwhelming majority of cases fenugreek is used as a spice, and therefore Rav Schwartz has ruled that it may be used for *Pesach* and included in maple syrup flavors certified for *Pesach* use.



Cooling Tunnels and Tunnel Pasteurizers

Introduction

At home, the main reason we heat foods is to cook them and/or to make them more enjoyable to eat, but in factories a major reason for heating products is to kill off the bacteria which cause spoilage. That heating process is known as pasteurization. It would be foolish to put a pasteurized product into a bacteria-laden container, so in many cases the food is still hot when it is put into the container and the product's residual heat sterilizes the container. An alternative is for the product and container to be pasteurized simultaneously after the food is already in the (sealed) container. In both of these cases, the sterilization will only be successful if the product remain in the container above a certain temperature for a given amount of time (e.g. over 140° F for 15 minutes).

How do companies heat up containers full of product? How do they maintain the temperature of containers that have been filled with hot product? After the pasteurization is complete, how are containers cooled down so that they can be labeled, packaged or otherwise handled in the plant? What method of cooling can be used to slowly cool glass bottles without cracking them? One common method of dealing with these issues is to have the containers either pass through a tunnel pasteurizer or a cooling tunnel.

This document will discuss both tunnel pasteurizers and cooling tunnels because they are really two variations of the same piece of equipment.

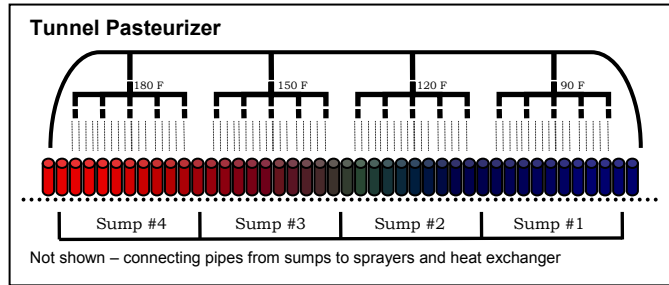
The equipment

Tunnels take up a lot of floor space, and it wouldn't be unusual for one to be 20 feet wide and 75 feet long, but the area of the tunnel which the cans, bottles or other sealed containers of food pass through, are typically just a drop taller than the containers themselves. Containers are put onto a belt that moves them through the tunnel at a rate of about 1 foot a minute, and water rains down on them as they slowly move through the tunnel.

In a cooling tunnel, the containers enter the tunnel very hot and the water pouring down in the first zone of the tunnel will typically be just a bit cooler than they are. For example, cans of jelly might be filled at 190° F and the water in the first zone might be just 160° F. In each of the subsequent zones, the water will be progressively cooler, and the containers will typically exit the tunnel at just above ambient temperature. A tunnel pasteurizer uses the same system in reverse. The containers enter the tunnel at ambient temperature and the water in the first zone may be just 100° F but each of the other zones will be increasingly hotter (except for the final zone or zones which may serve to cool the containers before they exit the tunnel).

The water used for cooling or heating in these two systems, is circulated and recycled in an ingenious manner which is illustrated below.

¹⁷ See *Mishnah, Ma'aser Sheini* 2:3, but also see *Rashi, Rosh HaShanah* 12b s.v. *hatilsan* who says that it is a spice.



The diagram shows a side view of a (see-through) tunnel pasteurizer with the cans moving from right to left through the tunnel's 4 zones. [From this perspective, only one row of cans is visible, but in truth the cans may be 10-20 deep]. The water coming out of the heat exchanger (not shown) at 180° F pours on the cans in Zone 4 and falls into a sump below the belt. During this phase, the cans get their final heating and the water is cooled to 150° F. From the sump, the water is pumped to the top of Zone 3 (through a connection that isn't shown in the diagram) where it once again rains down on the cans, heating the cans and cooling the water further. The process continues through the remaining zones, until the water has given up all of its heat into the cans and is ready for reheating and reuse. Thus, while the cans are slowly heated as they move from right to left, the water is slowly cooling as it moves from left to right. A certain amount of water gets carried out on the cans, but by and large the same water ends up being used again and again.

The exact same circulation system is used in a cooling tunnel, except that the water is cooled instead of heated, and the water gets progressively hotter while the cans are slowly cooling. This slow process is especially useful for hot glass bottles which will break if they are "shocked" with very cold water.

Transfer of ta'am and Kashering

Although cooling tunnels and tunnel pasteurizers work in basically the same manner, the transfer of *ta'am*/taste is quite different in the different systems. To understand why, we must review some of the relevant halachos which are primarily found in *Shulchan Aruch* 105:3 and the commentaries ad loc.

When food is *yad soledes bo* in a *kli rishon* (the pot used to cook the food in) *ta'am*

transfers completely; this is true regarding *ta'am* transferring between the food and the *kli rishon*, and even between the (hot) food in the *kli rishon* and cold food that comes in contact with it. If, however, the hot food falls from the *kli rishon* onto other cold food, or the hot food is in a *kli sheini*, the *b'liah* typically only transfers into a minimal depth of the food or utensil (i.e. a *k'dei klipah*). Within this context there is also a further distinction between whether the hot product is on top/moving or bottom/stationary with less *ta'am* transferring in the former case than in the latter.

We can logically understand that more *b'liah* happens when food is hotter than *yad soledes bo*, but what difference does it make if the food is in the *kli rishon* or *kli sheini*? *Tosfos*¹⁸ explains that although the temperature in these two *kellim* may be identical, the walls of the *kli rishon* utensil maintain or increase the heat of the food while in a *kli sheini* the walls are colder than the food and draw heat away from it. It is this fact, that the walls of the *kli sheini* are actively cooling the food, which prevents *ta'am* from transferring. Two possible *chumros* can be inferred from this line of reasoning:

- Walls aren't cooling – If the walls of the *kli sheini* are somehow heated to the point that they don't cool off the product, the *kli sheini* will possibly have the status of a *kli rishon*. *Taz* and *Shach*¹⁹ appear to accept this line of reasoning, but *Chavas Da'as* and *Pri Megadim* do not fully agree.²⁰
- *Davar gush* – If the food in question is a solid mass (*davar gush*) which retains its heat and isn't affected by the temperature of the walls, the food should retain its *kli rishon* status even if it is moved into a *kli sheini*. The *Poskim* have considerable debate on this issue, with *Rema* and others being lenient, but *Mishnah Berurah* says one should be *machmir* for the opinion of *Shach* and *Magen Avraham*.²¹

In the case of a tunnel pasteurizer, it seems clear that *ta'am* transfers completely between the product, container, water, and belt. Although the hot water pouring

¹⁸ *Tosfos*, *Shabbos* 40b s.v. *v'shmah minah*.

¹⁹ *Taz* 92:30 and *Shach* 107:7.

²⁰ *Chavas Da'as*, *Blurim* 92:27 & *Chidushim* 92:32, cited in *Darhei Teshuvah* 92:200; *Pri Megadim* O.C. (M.Z.) 451:9.

²¹ *Rema* 94:7 & 105:3, *Taz* 94:14 and others cited in *Pischei Teshuvah* 94:7 are lenient, while *Issur V'heter* 36:7, *Shach* 105:8 and *Magen Avraham* 318:45 are lenient. *Chochmas Adam* 60:12 and *Mishnah Berurah* 447:24 rule that one should be *machmir* except in cases of *hefsed merubah*.

onto the containers is technically not more than *irui kli rishon* (and is likely even less), the fact that the water manages to heat the containers and their contents from ambient temperature to well over *yad soledes bo*, leaves us no real choice but to consider this cooking in a *kli rishon*. This situation appears to go well beyond the case of “walls aren’t cooling” noted above, for in this case not only has the extended *irui* stopped the walls from cooling but has even served as a catalyst for a thorough heating of the product exactly as occurs in a *kli rishon*. Thus, in the case of a tunnel pasteurizer, the water pouring down on the non-kosher containers absorbs *ta’am* and then serves as a medium to transfer *ta’am* to the belt and other parts of the tunnel. [In many cases, there are other factors which negate the need to *kasher*; see below].

As such, in order to use a non-kosher tunnel pasteurizer for kosher product, the water must be drained and replaced, the system must sit idle for 24 hours and boiling water must be sprayed through the sprayers onto the entire system as the belt is in motion. Since there will be no containers passing through the tunnel, the water should stay pretty hot from one zone to the next and it should be reasonably easy to accomplish this *kashering*.

On the other hand, it is much more difficult to say that *ta’am* is transferred in a cooling tunnel. The food was put into the containers after heating/cooking in a kettle, so the containers enter the tunnel as a *kli sheini*. It is possible to argue that the hot water raining down on the cans in the first zones of the tunnel heat up the walls to such an extent that they qualify as “walls aren’t cooling”, but this is somewhat difficult to defend in this case where the water pouring down is cooler than the cans and is specifically designed to cool the container. Similarly, it seems improper to view the entire container as a *davar gush* because the food wasn’t cooked in that container; rather, we should view the liquid product sitting in the container as a classic *kli sheini*.

We’ve seen that the *ikar hadin* is that not more than a *k’dai klipah* worth of *ta’am* can transfer in a *kli sheini*, which would mean that it couldn’t penetrate the walls of

the container. Even according to those who hold that full transfer of *ta’am* occurs in a *kli sheini*,²² for that *ta’am* to be a concern in this case it must transfer through the walls of the container of non-kosher product into the water and then back through the walls of the subsequent container and into the kosher product. Although we generally are *machmir* for those who hold that *ta’am* transfers fully through the walls of a container (*Shulchan Aruch* 92:5), Rav Schwartz ruled that one isn’t required to be simultaneously *machmir* for both of these halachos – full transfer of *ta’am* in a *kli sheini* and through the walls of a container. Accordingly, one isn’t required to replace the cooling tunnel’s water (although some may choose to be *machmir* and do so) or *kasher* the chamber between non-kosher and kosher products.

Additional factors

The above discussion assumes that the product in the container was truly non-kosher and considers whether *b’lios* transfer into the water and tunnel. In truth, the tunnels are very often used to process products and containers for which some of the following additional leniencies need to be factored in:

- Although *Rema*²³ is *l’chatchilah machmir* to say that *ta’am* is absorbed into and out of glass, *Shulchan Aruch*²⁴ disagrees, and even *Rema* is lenient in cases of great need.²⁵
- It is generally accepted in the *kashrus* world that so little *ta’am* transfers through the walls of a container (or heat exchanger) that any *ta’am* of *stam yayin* would be *batel b’shishah* and can be ignored. [A full discussion of that assumption is beyond the scope of this document].
- Where the equipment is used for all-kosher items but some are dairy, the dairy is often a relatively minor ingredient which might be *batel b’shishim* if we assume there is limited *b’liah* through the walls of a container (as in #2).

²² See *Shulchan Aruch* 105:2 and *Rema* 68:11 & 105:3.

²³ *Rema* 451:26.

²⁴ *Shulchan Aruch* 451:26.

²⁵ See *Mishnah Berurah* 451:155, and also see *Darchoi Moshe* Y.D. 135:4** (printed in the *Machon Yerushalayim* edition, and based on *Darchoi Moshe Ha’aruch*).