

# SAPPIRIM

Chicago Rabbinical Council

Issue 27

July 2016 / יוני תשע"ו

## MEDICAL MARIJUANA

*What could possibly be not kosher about medical marijuana*

Although the federal government classifies cannabis/marijuana as a "Schedule I" controlled substance (the most restrictive level),<sup>1</sup> many states have legalized its use for specific medical purposes, and the Federal government has chosen to "ignore" those consumers who take advantage of their state's allowances.<sup>2</sup> The federal government is not as forgiving of producers, and therefore growers are careful to restrict themselves from selling in more than one state. Since 2013, marijuana use has been legal in the State of Illinois for people suffering from one of a few dozen conditions; the state is very cautious as to approving growers, dispensaries, and consumers who may use marijuana, and therefore the local market is thus far quite small.

Many of the people who are legally allowed to use medical marijuana, are so sick that they would be permitted to consume this medicine even if it were to be not kosher.<sup>3</sup> However, (a) some of those people will suffer needlessly because they will adamantly refuse to take pain relief unless they know it is kosher, and (b) many of those who qualify for medical marijuana are not sick enough to qualify as a חולה, and would not be able to take the medicine unless it was known to be kosher.

The creation of medical marijuana involves four potential *kashrus* issues, each of which will be

discussed in conjunction with one step in the production, noted below. As an introduction it is worth noting that different methods of ingesting marijuana are appropriate for different needs. For example, smoking provides quicker, short-term benefit, while eating a cannabis-containing chocolate has a stronger and more long-lasting effect. Thus, what is effective and appropriate for one condition may not be suitable for the next.



### 1. Growth

The plants grow to a height of a few feet, and it is the flower bud which contains the desired/active components.

All leafy vegetables or buds potentially harbor insects, and this is potentially a concern for the cannabis plant just like with any other. However, it appears that this is not a significant *kashrus* concern because in order to benefit from the cannabis plant, the bud/flower must be heated in order to effect "decarboxylation" (which converts THCA to THC). As a result, the cannabis plant is never consumed "as is" in the way that other leafy vegetables are eaten. Instead, it is either smoked, vaporized (burned or heated to release active ingredients), or heated in the factory in a manner that extracts the active oils, and then

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<sup>1</sup> 21CFR13 Section 1308.11. Schedule I substances are defined as:  
(A) The drug or other substance has a high potential for abuse.  
(B) The drug or other substance has no currently accepted medical use in treatment in the United States.  
(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

Marijuana is listed both as "Marihuana" and "Tetrahydrocannabinols".  
<sup>2</sup> See, for example, the letter from the Department of Justice at <http://kshr.us/295fm8x>, which says that:

As a general matter, pursuit of these priorities should not focus federal resources in your States on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana. For example, prosecution of individuals with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law,

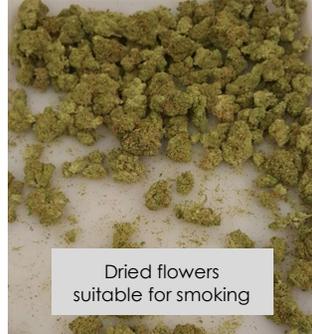
or those caregivers in clear and unambiguous compliance with existing state law who provide such individuals with marijuana, is unlikely to be an efficient use of limited federal resources.

<sup>3</sup> See *Shulchan Aruch* 328:4, and the discussion in *Mishnah Berurah* 328:14 and *Biur Halacha* ad loc., as to if and when one may violate an *issur* to provide medicinal items of other services which help the patient but do not cure the illness (e.g., pain relief) for a חולה שיש בו סכנה. Seemingly, providing medical marijuana for this type of patient, would qualify for the leniency noted near the end of *Biur Halacha* that all agree that:

ודע עוד דאפילו לפי דעת האוסרים ה"ל היינו דוקא בדבר שברור לנו שלא יכבד חליו ע"י מניעת דבר זה אבל בדבר שיש חשש שע"י מניעת דבר זה יחלש וכבד חליו מחללין עליו השבת וכעין שכתב ר"ת לגבי יר"כ וכו' וכן נפק לקמן בריש סימן תר"ח. ולפי דבר המאיר ה"ל ביומא משמע שאם ע"י פעולת החילול הזה יתחזקו אבריו לכך אין למנוע דבר זה מאתו כיון שהוא חולה שיש בו סכנה.



the person ingests those oils in one form or another (see below). In either case, there is essentially no chance that any insect found in the plant will be consumed by the patient, and therefore this does not appear to be a significant concern. [As a result of this conclusion and logistical concerns, we have not yet actually checked the flowers to see if they are infested.]



Another factor to consider is that Illinois law requires that cannabis be grown indoors in a very controlled environment<sup>4</sup> with minimal exposure to the outdoors.<sup>5</sup> Not only does this minimize the chance of infestation,<sup>6</sup> but it also potentially means that the plants may qualify as having grown in an *עציץ שאינו נקוב* which provides certain *halachic* leniencies regarding insects, as noted elsewhere in this issue.

## 2. Extraction

While much of the medical marijuana is sold as dried flowers, a considerable amount is processed in the factory to extract (and simultaneously decarboxylate) the plant's essential oils. This oil is then isolated to provide a concentrated and specific dosage of the desired components.

The solvents used in the extraction process may be kosher-sensitive. In fact, the cannabis company which the cRc certifies had a history of using a non-kosher solvent, such that the equipment required *kashering* before they were able to be certified.

## 3. Dilution

Some of the essential oils are mixed with other ingredients before being filled into "vape-pens". When the patient activates the pen, the oil is heated/vaporized and the patient inhales the vapors.

The inactive ingredients added to the vape-pen are commonly kosher-sensitive and require *hashgachah*.

## 4. Food-Creation

Marijuana is most potent when it is ingested through the gastrointestinal tract and thereby makes its way to the bloodstream. In order to achieve this, carefully measured amounts of cannabis essential oil are added to brownies, nut brittle, granola bars, or other foods, and those are then sold to patients who will benefit from them.

The production of these food-items, is no different than any other processed food facility where *hashgachah* is required to ensure that kosher ingredients are used and that the equipment is not used for any non-kosher items.

## HYDROPONICALLY GROWN PRODUCE

*In which ways might their status be special as relates to hilchos tolaim*

### Mushrooms

The *Gemara*<sup>7</sup> tells us that mushrooms do not draw nutrition from the ground (מינקה לא ינקי) and are considered to have grown "in the air" such that the *beracha* on them is *shehakol*. *Haga'os Issur V'heter*<sup>8</sup> says that for that same reason, bugs which form in mushrooms are not considered to have formed in the ground, and are permitted until they leave their habitat.

*Toras Chattas*<sup>9</sup> brings two proofs that this is not true: the same *Gemara* says that mushrooms are מירבא רבו מארעא (they draw nutrition from the ground), and a different *Gemara*<sup>10</sup> says that someone who vows to not eat 'produce of the ground', may not eat mushrooms). These show that although mushrooms are not enough a product of the ground to qualify for a *borei pri ha'adamah*, in other respects they are considered to have grown from the ground<sup>11</sup> and therefore insects which grow in them are forbidden.<sup>12</sup> This strict ruling is the basis for *Rema* 84:6.

<sup>4</sup> The state's strong control of the growing and processing plant, raised its own issues regarding securing permission for the *Mashgiach* to perform unannounced visits, as is standard for all kosher certified facilities.

<sup>5</sup> Although the flowers sold for smoking are dried out before sale, the drying is not done in a manner that would qualify as יבש טעך (discussed by *Binas Adam* 36 (52) and *Darchoi Teshuvah* 84:102).

<sup>6</sup> By no means does the indoor location ensure there are no insects, and in fact, the company has its own insect-control program.

<sup>7</sup> *Gemara, Berachos* 40b.

<sup>8</sup> *Haga'os Issur V'heter, Haga'ah* 41:11 printed in the back of *Sefer Issur V'heter*.

<sup>9</sup> *Toras Chattas* 46:1.

<sup>10</sup> *Gemara, Nedarim* 55b.

<sup>11</sup> *Toras Chattas* refers to mushrooms as "קצת גדולי קרקע".

<sup>12</sup> The *Gemara* says that if someone is מירבא רבו מארעא he is permitted to eat mushrooms, so the *Gemara* is saying that mushrooms are גדולי קרקע but are גדולי קרקע. Seemingly, *Rema* understood that if the vegetable is גדולי קרקע, then that is enough to qualify the insect grown in it as having been גדולי קרקע even though the vegetable is גדולי קרקע.

### עציץ שאינו נקוב

*Minchas Yaakov*<sup>13</sup> sees two possible ways to understand *Toras Chattas*'s first proof which – he notes – have a practical application to mushrooms or any other food which grows in an עציץ שאינו נקוב (flowerpot which has no hole in it, halachically considered to not be attached to the ground).<sup>14</sup> On the one hand, *Rashi*<sup>15</sup> says that the *Gemara* means to say that the mushrooms are not physically “attached” to the ground but nonetheless draw nutrition from the ground. Therefore, just like *Rema* teaches us that insects grown in mushrooms growing on the ground are forbidden, so too insects which grow in mushrooms or any other food which are in an עציץ שאינו נקוב are also forbidden even if they have never left their birthplace. In other words, mushrooms which are “on” the ground are not considered to be attached to the ground, and if insects grown there are forbidden, then the same applies to those which grow completely separated from the ground.<sup>16</sup>

In contrast, *Minchas Yaakov* suggests that there are multiple indications that the only reason insects in mushrooms are forbidden is that the mushrooms are considered “גדולי קרקע”, which is to say that since the mushrooms grow on the ground they are considered to have grown in the ground, at least in this respect. Accordingly, the insects are only forbidden when the mushrooms are on the ground, but if the mushroom or other vegetable was growing in an עציץ שאינו נקוב (i.e. off the ground), the insects are permitted until they crawl out of the vegetable.

*Minchas Yaakov* leaves this question unresolved.

In contrast to *Minchas Yaakov*'s uncertainty on this point, *Orach Mishor*<sup>17</sup> is sure that insects growing in an עציץ שאינו נקוב are considered attached to the ground, while *Tuv Ta'am Vada'as*<sup>18</sup> is equally sure that they are not.

Although many of the aforementioned *Poskim* are specifically discussing mushrooms, there does not appear to be any reason why they would not maintain the same position for any item grown in an עציץ שאינו נקוב. Thus we can conclude that if an insect grew in an עציץ שאינו נקוב, there is a *machlokes HaPoskim* as to whether it should have the status of an insect which grew attached to the ground or unattached to the ground.<sup>19</sup>

#### cRc Beis Din Decision

What is the status of an insect which grew in an עציץ שאינו נקוב and never left its original habitat:

- As relates to a potential *issur d'oraisah* (e.g. the person can see the insect)?  
Forbidden
- As relates to a potential *issur d'rabannan* (e.g. must one look for the insect in a vegetable which is only infested to the level of *miut hamatsui*)?  
Permitted

### Hydroponically-Grown Vegetables

For the purposes of our discussion, there are basically two ways to grow vegetables in a greenhouse:

1. The vegetables grow in the ground like any other vegetable, but the growing-area is covered by a greenhouse which protects it from the elements (and bugs) and helps the farmer in creating a better growing environment. Basically, this is a glass box built on top of a field. This growing method is of no significance to us.
2. A greenhouse is used for hydroponic-growth of vegetables. The seed is planted in a “nursery” and sometime later it is transferred into a final-growing area. Both of these areas are in a greenhouse which has a solid floor and often has a solid (or partially solid) roof and walls.

<sup>13</sup> *Minchas Yaakov* 46:1.

<sup>14</sup> See the two opinions cited in *Tosfos, Gittin 7b עציץ*, *Rema* CM 202:12, and *Biur Halacha* 336:8 מעציץ as to what type of flowerpot nutrition can flow through even without a hole. This article will not detail the opinions listed there, and will take the simplistic approach that any container that does not have holes in it is considered an עציץ שאינו נקוב.

<sup>15</sup> *Rashi* to *Gemara, Berachos* ibid.

<sup>16</sup> He refers to such mushrooms as having been העצים ועל הכלים גדלים (grown on wood or in containers).

<sup>17</sup> *Orach Mishor* 84:5. [*Orach Mishor* is a commentary on *Darchoi Moshe Ha'aruch* printed approximately 300 years ago. *Orach Mishor* and *Minchas Yaakov* (noted below) are cited in *Darchoi Teshuvah* 84:82.] *Orach Mishor* supports his position from the aforementioned *Rashi*, and makes a similar point from the second of *Toras Chattas*' proofs. We could also seemingly find indication to *Orach Mishor* from the words of *Darchoi Moshe* 84:4 who describes his opinion as השרץ נקוב ולא בגדול מן הארץ which surely seems to include plants which are attached to dirt in a flowerpot.

<sup>18</sup> *Tuv Ta'am Vada'as* 1:122. The *feshuvah* is not discussing mushrooms, and it is not clear exactly what the context of his statement is (as it does not seem connected to the situation he is discussing and appears to be a response to a specific point made by the questioner). However, the following are his words which seem to clearly state his opinion on the matter:

הנה אין מקום לספק בזה דלענין שיהי' נחשב שרץ השרוץ על הארץ דלא נבעי פירוש, בזה ודאי לא נחשב עפר בתלוש שרוץ על הארץ, דדוקא בקרקע מחובר בארץ נקרא שרוץ על הארץ אבל עפר התלוש לא נקרא ארץ רק עפר ובודאי בעיני פירוש כדן השרוץ בתלוש.

<sup>19</sup> *Rav Vaye* (*Bedikas Hamazon K'hilchaso* Chapter 3 footnote 6) reports that he asked *Rav Shlomo Zalman Auerbach* and *Rav Shmuel Vosner* whether insects grown in an עציץ שאינו נקוב are considered to have grown on the ground, and both responded that the matter requires further research, and one cannot be lenient without some proof to that position. We have now seen that that question is a *machlokes HaPoskim*, and later publications released by *Rav Vaye* cite some of these sources.

The growth-media used in these areas can be divided into three basic groups: earthlike materials, non-earthlike materials,<sup>20</sup> and water. The nurseries tend to use growth media from the first two groups, and the final growth areas tend to use water (hence the term “hydroponics”). In all cases, the growth media does not provide any nutrition but rather is essentially an inert tool (which sometimes anchors the plant and) through which the grower/farmer delivers a pre-made nutrient mixture to the plants.

In this second method of growing, any insects which are found in the vegetables would appear to be an example of insects that grew in an עציץ נקוב שאינו נקוב, because they are growing in metal tanks that are over a cement floor with no connection to the ground. In fact, in *Eretz Yisroel* they use a variation of this method to plant during *shemittah*!

If the nursery uses a growth-media which is not considered “earth”, then it may be that all opinions agree that insects that are born in the vegetables are considered to have been born unattached to the ground since they didn't even grow in “ground”. The point below is made even under the assumption that the growth-media does have the status of earth.

This leads us a theoretical difference for vegetables or herbs grown hydroponically. The insects grew in an עציץ שאינו נקוב, and therefore in situations where the insect does not pose more than a Rabbinic prohibition, such as when the level of infestation is merely a *miut hamatsui*, one can leniently assume that the insect is permitted until it moves from its original habitat – i.e. from one vegetable to another. In fact, there is basis to assume that in situations such as these, one need not be concerned that the insect moved from its original habitat,<sup>21</sup> such that it may well be that there is no requirement to check such vegetables for infestation! Of course, as noted, this possible leniency is limited to vegetables where the full growth – nursery through final stages – occurred in a way that qualifies as an עציץ שאינו נקוב, and one

who chose to rely on this would have to confirm that determination.

### cRc Beis Din Decision

If one can determine that a vegetable's full growth cycle occurred in an עציץ שאינו נקוב and that the level of infestation is (merely) a *miut hamatsui*, must that vegetable be checked for infestation before eating, if...

- ...the vegetable's growth media qualifies as “ground”?  
No
- ...the vegetable's growth media does not qualify as “ground”?  
No

A second application of this leniency is discussed below.

### Leaf Miners

Leaf miners are insects which lay eggs inside leaves (lettuce, herbs), celery, and even in the peel of some fruit. When these insects hatch, the “baby” remains in between the layers of the leaf and tunnels horizontally through the leaf, eating its way around the leaf while staying sandwiched between the top and bottom layer of leaf. As the leaf miner eats and moves, it leaves behind a serpentine trail of dead/non-green leaf which is often speckled with black droppings, as shown in the pictures (courtesy of Pos'tiv Produce). After 2-3 weeks of tunneling through the leaf, the insect pokes a hole in the top or bottom layer of the leaf and exits. It is possible to cut open the leaf and extract the insect (and this author has actually seen it being done), and the insect is surprisingly quite large.



Leaf miner trails on leaf



Leaf miner (enlarged) with droppings

<sup>20</sup> The following are some of the common media used in hydroponic growing in lieu of soil (with those more likely to be classified as earthlike listed earlier):

- Plant byproducts, such as coconut coir (made from fibers found in coconut shells), Sphagnum peat moss, or wood fiber.
- Minerals in their natural state such as gravel, sand, or Vermiculite.
- Minerals which have been heated (often to very high temperatures) to change their properties, such as LECA/clay pebbles (made from clay), Hydromite (made from volcanic ash), Rockwool (made from basalt rock and chalk) or Perlite (made from silica).

For more on these materials see <http://bit.ly/mClh92> (Coconut Coir), <http://bit.ly/3cxKj> (Hydromite), <http://bit.ly/in9Jmb> (LECA/clay pebbles), <http://bit.ly/0MlM> (Perlite), <http://bit.ly/moCkeH> (Rockwool), <http://bit.ly/iZE4E3> (Sphagnum peat moss), and <http://bit.ly/miAFO> (Vermiculite).

Rav Schwartz ruled (in March 2009) that coconut coir is not considered “earth”, and it would seem that if so it may be that all of the materials listed above are also not earthlike. I have not found discussion of this in contemporary *Poskim* but assume that we are not the first to have considered this question. In this context, it is noteworthy that *Gemara, Chullin* 88a-b (cited in *Shulchan Aruch* YD 28:23-24) discusses in detail which mineral, plant, and other materials are suitable as a growth media and therefore considered “עפר” which is acceptable for use in *המה*. If those same criteria will be used in determining which materials are considered “earthlike” as relates to the topics discussed in the text, very few of the materials listed (if any) will qualify, and this supports Rav Schwartz's ruling. [This is particularly true if one considers the statement in the text below that the growth media is intended to be an inert tool.]

<sup>21</sup> See *Chochmas Adam* 30:11 (and *Binas Adam* 35 [51]), *Aruch HaShulchan* 84:45-47, and *Tzvi L'Tzaddik* (Tzvi L'Tzaddik, second comment on 84:5), as opposed to *Pri Megadim* MZ 84:8.

What is unique about this insect is that it is not possible to wash or brush it off. The insect is in the leaf and cannot possibly be removed by water or soap applied to the outside of the leaf. Thus, if someone sees a leaf miner in a given piece of celery on in an herb-leaf, they must cut out the affected area and not eat it.

In food, these insects are most often found in celery, but people with experience report that even in celery they there are likely not common enough in the USA to be considered a *miut hamatsui*. Another reason to be less concerned with leaf-miners has to do with the following: For the first few days after the leaf miner is born it is possibly too small to be *assur* and likely has not yet left enough of a trail to be detected. After a few days, the insect will be large and have left quite a trail, but a person seeing that trail has no way of knowing if the insect is still in the leaf or has already burrowed its way out and left. Thus, the food is only forbidden during a very specific window of time – from when the insect is large enough until it leaves – and therefore even if there are telltale trails there is no simple way to know if the food is actually forbidden. For these two reasons, the standard practice in the United States is that people do not check their vegetables for leaf-miner insects, but *Mashgichim* are trained to recognize them and discard food when they happen to notice one of the insects present.

We have seen that insects which grow in produce that is in a greenhouse are likely considered to have grown unattached to the ground (ענין שאינו נקוב), such that there may be basis for permitting the insect until it leaves its habitat. As relates to standard insects there is always a question whether it did or did not leave the original vegetable in which it was born, but we can be 100% sure that if a leaf-miner is present in a piece of celery (or some other food) then it has definitely never left its birthplace. It was born between the layers of the leaf or celery and remains trapped in that location until it exits the plant (at which point, the food is obviously permitted).

This means that whereas standard insect-free vegetables must be grown in a manner that avoids leaf miners and might be inspected after growth to be sure there is no infestation, the *Rav HaMachshir* does not have to do this for greenhouse-grown produce.<sup>22</sup>

## VITAMINS

*A quick rundown of those vitamins which do or do not require certification*

The following chart describes the kosher status of different vitamins as they are typically sold for commercial use. The chart is based primarily on an article<sup>23</sup> by Rabbi Zushe Blech, who reviewed this chart and graciously agreed to its publication:

Vitamin	Needs Hashgachah?
A .....Retinol	Yes ① <sup>24</sup>
B <sub>1</sub> .....Thiamin	No
B <sub>2</sub> .....Riboflavin	Yes ②
B <sub>3</sub> .....Niacin, Niacinamide	No
B <sub>5</sub> .....δ-Pantothenic Acid	No
B <sub>6</sub> .....Pyridoxine Hydrochloride	Yes ② <sup>25</sup>
B <sub>12</sub> ...Cyanocobalamin	Yes ②
C .....Ascorbic acid	Yes ②
D <sub>2</sub> ....Ergocalciferol	Yes ①
D <sub>3</sub> ....Cholecalciferol	Yes ① <sup>26</sup>
E .....Tocopherol	Yes ① <sup>27</sup>
Folic Acid	No
H.....Biotin	No
K .....Menadione	Yes ① <sup>28</sup>

## Notes

- ① The fat-soluble vitamins (A, D, E & K) are commonly spray dried and encapsulated in gelatin, and therefore they require proper kosher certification.
- ② Requires certification because it is produced via fermentation.

<sup>22</sup> The statement in the text is made based on the assumption that the infestation level is never more than a *miut hamatsui*, such that there is never more than a Rabbinic requirement to check the vegetable and therefore one may be lenient regarding the status of an insect born in an ענין שאינו נקוב.

<sup>23</sup> The article can be found at <http://www.mk.ca/pdf/newsletter18e.pdf>, and an updated version is printed in Rabbi Blech's book *Kosher Food Production* (available at <http://kshr.us/KosherFoodProduction>).

<sup>24</sup> Vitamin A Palmitate is made with palmitic acid, which is a kosher-sensitive ingredient (see *Sappirim* 8).

Natural Vitamin A, a.k.a. λ-retinol or l-retinol, is made from animal products and requires supervision.

<sup>25</sup> Although there are synthetic methods of producing Vitamin B<sub>6</sub>, and CFR 184.1676 even indicates that that is the method used, Rabbi Dr. Moshe

Rosenfeld (KLBD) reports that those methods are not commercially viable, and all Vitamin B<sub>6</sub> is produced via fermentation.

<sup>26</sup> Produced from lanolin, which is generally accepted as kosher. For a summary of the *Poskim* who discuss this see *Contemporary Halakic Problems* Volume III, page 77, or listen to the shiur at <http://kshr.us/81-5b>. Other *feshuvos* on the topic were written by Rav Yisroel Belsky (on pages 78-80 of *Mesorah* volume 12, which is available at <http://www.ou.org/pdf/mesorah/mes12.pdf>) and Dayan Chanoch Padwa [*Cheshev HaEfod* 1:10, which is available at <http://kshr.us/28VMN91>].

<sup>27</sup> Natural Vitamin E, a.k.a. mixed tocopherols, is commonly a byproduct of soybean oil deodorization, and the equipment used for that process might also be used for animal fats. [α-tocopherols are typically synthetic].

<sup>28</sup> Vitamin K is also available in water-soluble form, in which case it is Group 1.

## LIQUOR

### *The different types of alcoholic beverages, and the cRc's recommendations for each of them*

In the 3.5 years since Rabbi Akiva Niehaus has joined the cRc and taken over responsibility for the cRc Liquor List, the list has tripled in size from just over 500 products to its current listing of 1,600 items, and has become a primary source for consumers. In addition to investigating the status of specific products, Rabbi Niehaus monitors the overall alcoholic beverage industry, including recently completing a 3-day course about sake production, and planning a trip to Scotland to learn more about the Scotch industry. This general knowledge of the industry and ongoing research forms the basis for the cRc's policies on different alcoholic beverages. This article will list those different beverages and provide a description (written by Rabbi Cohen) followed by the appropriate policy (written by Rabbi Niehaus).

### American Whiskies

*Bourbon is whiskey<sup>29</sup> made in the United States<sup>30</sup> from a mash that contains at least 51% corn and which is aged in new oak casks, and Tennessee whiskey is bourbon produced in the state of Tennessee. Rye whiskey is made from a mash that contains at least 51% rye and which is aged in new oak casks. Corn whiskey is made from a mash that contains at least 80% corn and aged in used or new oak casks. [Typically, corn, rye, and barley are used in all of these whiskies, and the difference between them is the percentage of each grain.]*

*The above whiskies may be labeled "straight" (e.g. straight bourbon) if they are aged for at least two*

*years in the appropriate cask and do not contain any neutral spirits or "harmless coloring, flavoring or blending materials" (known as "HCFBM"). A straight whiskey may contain a "mixture" of straight whiskies if they are all the same type and were made in the same state.*

*Whiskey labeled as "blended" (e.g. blended rye, rye whiskey – a blend) must contain at least 51% of the stated whiskey (rye) but may also contain other whiskey, neutral spirits, and HCFBM. Lastly, if they are simply labeled "blended whiskey" without stating a given type of whiskey, they must only contain 20% straight whiskey and the rest may be other whiskey, neutral spirits or HCFBM.*

*There are other designations (e.g. light whiskey, a blend of straight whiskies) which are described in the footnote.<sup>31</sup>*

In general, American Whiskey does not require kosher certification. (See below regarding bourbon.) Two exceptions are:

- Some have begun adding flavors and/or aging the liquor in wine casks. Such items would not be acceptable without certification, and consumers can determine if a given liquor has this issue by carefully reading the bottle's label.
- Some whiskey companies are owned by Jews who do not sell their chametz; those brands are not recommended and are listed below. See <http://bit.ly/r1lmVc> for details.

Nevertheless, due to potential kashrus considerations regarding flavorings and blending materials used in standard American and Blended Whiskey, it is preferable to only use products

<sup>29</sup> Whisky can be spelled with or without an "e" (whiskey or whisky). In general, Scottish, Canadian, and Japanese producers and consumers use the "whisky" spelling, while those in American or Ireland prefer "whiskey"; this document will follow that convention except when quoting US government regulations, which use the "whisky" spelling.

<sup>30</sup> Bourbon must be produced in the United States (and not necessarily in Kentucky as many believe) and the other whiskies described in this section must either be produced in the United States or be labeled as "American type" (or show the country of origin) (27 CFR towards the end of Part 5.22).

<sup>31</sup> The preceding paragraphs in the text are based on the standards of identity stated in the Code of Federal Regulations (27 CFR Part 5.22, which can be found at <http://bit.ly/rkv7cR>), and the following are some quotes from it:

- (1) (i) "Bourbon whiskey", "rye whiskey", "wheat whiskey", "malt whiskey", or "rye malt whiskey" is whisky produced... from a fermented mash of not less than 51 percent corn, rye, wheat, malted barley, or malted rye grain, respectively, and stored...in charred new oak containers; and also includes mixtures of such whiskies of the same type.
  - (ii) "Corn whiskey" is whisky produced...from a fermented mash of not less than 80 percent corn...and also includes mixtures of such whisky.
  - (iii) Whiskies conforming to the standards prescribed in paragraphs (b)(1)(i) and (ii) of this section, which have been stored in the type of oak containers prescribed, for a period of 2 years or more shall be further designated as "straight"; for example, "straight bourbon whiskey", "straight corn whiskey", and whisky conforming to the standards prescribed in paragraph (b)(1)(i) of this section, except that it was produced from a fermented mash of less than 51 percent of any one type of grain, and stored for a period of 2 years or more in charred new oak containers shall be designated merely as "straight whisky". No other whiskies may be designated "straight". "Straight whisky" includes mixtures of straight whiskies of the same type produced in the same State.
- (3) "Light whisky" is whisky produced...at more than 160° proof...and stored in used or uncharred new oak containers; and also includes

mixtures of such whiskies. If "light whisky" is mixed with less than 20 percent of straight whisky on a proof gallon basis, the mixture shall be designated "blended light whisky" (light whisky—a blend).

- (4) "Blended whisky" (whisky—a blend) is a mixture which contains straight whisky or a blend of straight whiskies at not less than 20 percent on a proof gallon basis, excluding alcohol derived from added harmless coloring, flavoring or blending materials, and, separately, or in combination, whisky or neutral spirits. A blended whisky containing not less than 51 percent on a proof gallon basis of one of the types of straight whisky shall be further designated by that specific type of straight whisky; for example, "blended rye whisky" (rye whisky—a blend).
- (5) (i) "A blend of straight whiskies" (blended straight whiskies) is a mixture of straight whiskies which does not conform to the standard of identify for "straight whisky." Products so designated may contain harmless coloring, flavoring, or blending materials as set forth in 27 CFR 5.23(a).
  - (ii) "A blend of straight whiskies" (blended straight whiskies) consisting entirely of one of the types of straight whisky, and not conforming to the standard for straight whisky, shall be further designated by that specific type of straight whisky; for example, "a blend of straight rye whiskies" (blended straight rye whiskies). "A blend of straight whiskies" consisting entirely of one of the types of straight whisky shall include straight whisky of the same type which was produced in the same State or by the same proprietor within the same State, provided that such whisky contains harmless coloring, flavoring, or blending materials as stated in 27 CFR 5.23(a).
  - (iii) The harmless coloring, flavoring, or blending materials allowed under this section shall not include neutral spirits or alcohol in their original state. Neutral spirits or alcohol may only appear in a "blend of straight whiskies" or in a "blend of straight whiskies consisting entirely of one of the types of straight whisky" as a vehicle for recognized flavoring of blending material.

labeled as "Straight" whiskey, such as "Straight Rye Whiskey".

White Whiskey and Moonshine require certification.

## Beer

*Beer is made by fermenting barley malt in the presence of hops and then diluting the product to an approximately 5% alcohol level. Beer is not distilled. Lager beers are typically aged 1-3 weeks and ales are not aged at all.*

All standard unflavored beers with no additives are acceptable, even without kosher certification. This applies to both American and imported beers, light, dark and non-alcoholic beers. Flavored beer, including those flavored with spices, botanicals, or fruits, require certification.

The following are exceptions:

- Many breweries produce specialty brews that have additives; please check the label and do not assume that all varieties are acceptable.
- Beers known to be produced at microbreweries, pub breweries, or craft breweries require certification.
- Milk stouts and other beers which contain lactose, require certification.
- Beers from Israel require certification to ensure that *terumah*, *ma'aser*, *shemittah*, and related *halachos*, are observed.

## Bourbon

See "American Whiskies"

In general, bourbon does not require kosher certification. Two exceptions are:

- Some have begun adding flavors and/or aging the liquor in wine casks. Such items would not be acceptable without certification, and consumers can determine if a given liquor has this issue by carefully reading the bottle's label.
- Some bourbon companies are owned by Jews who do not sell their chametz; those brands are not recommended and are listed below. See <http://bit.ly/r1lmVc> for details.

## Brandy

*The term "brandy" refers to grape wine which has been distilled so as to increase its alcohol concentration. Cognac refers to brandy distilled in the Cognac region of France. When a brandy-like beverage is made from the "wine" of other fruit, it will be referred to by the name of the fruit used, e.g. "apple brandy".*

Brandy and cognac require certification.

Fruit brandy also requires certification.

[Kosher] Brandy and cognac are inherently mevushal.

## Canadian Whisky

*Canadian law places no restriction regarding the addition of other ingredients, such as alcohol, wine, or flavorings, to Canadian Whisky, but to be labeled as "Canadian Whisky" it may not contain more than 9.09% of added ingredients that are not of Canadian origin.*

Canadian Whisky is recommended only if it is known to only contain kosher ingredients or has reliable certification.

## Cognac

See "Brandy"

## Gin

*Gin is the term used to describe vodka which is flavored with Juniper berries. [Vodka is described below.]*

Standard gin is recommended without *hashgachah* (even when containing juniper berries and other botanicals) unless the label states that it is produced from grapes, wine, milk, lactose, or whey. Special attention should be paid to Gin from France, New Zealand, and Australia.

Flavored gin (e.g. Lemon-flavored gin) requires *hashgachah*.

Sloe Gin is a liqueur and requires certification.

## Irish Whiskey

See "Scotch"

## Liqueur

*A flavored alcoholic beverage*

Liqueurs are, by definition, flavored drinks and require certification. Sometimes a liqueur is referred to as an aperitif or cordial.

Some examples of liqueurs are the beverages known as Alexander, amaretto, Arak, Curacao, eggnog, Goldwasser, Grasshopper, and sloe gin.

## Mead

*Mead is a distilled whiskey that is traditionally made from honey but may also include grains and is sometimes flavored.*

Mead requires certification since some contain kosher-sensitive ingredients such as wine or flavors.

## Miscellaneous

Alcoholic beverages (e.g. bitters, hard cider, Japanese whisky, white whiskey) other than varieties noted elsewhere in this article require certification.

## Rum

*Rum is produced by fermenting sugar or molasses. The most popular type is "White" (a.k.a. Clear) which is usually not aged. The two types of aged rum are "Yellow" (Gold, Oro) and "Dark" (Black) which are classified based on the color of the rum.*

*Flavored rum is called "spiced rum".*

Unflavored rum is recommended without *hashgachah* unless the label indicates that it was aged or finished in wine casks.

## Rye

See "American Whiskies"

## Sake

*Sake is a traditional Japanese high-alcohol rice wine which is made somewhat differently than other "wines" or alcohols, and is not distilled or aged. Kashrus concerns include the addition of alcohol and other flavorings, as well as the concern of bishul akum on the rice used for production.*

Sake requires certification.

## Scotch

*Scotch is made from barley, and after distillation it is aged in casks for at least three years. It must be produced in Scotland and may not contain anything other than four innocuous ingredients.*

*Most Scotch is produced by blending/marrying different products and vintages, and the difference between Single Malt and Blended Scotches are that in the former all of the Scotch must come from one distillery while in the latter it may come from more than one distillery.*

*Irish Whiskey is similar to Scotch – aside, of course, from being made in a different country – and according to European Union policy, it is now regulated the same as Scotch. Accordingly, the policies noted below for Scotch are also appropriate for Irish Whiskey.*

Many Scotches are aged in casks that previously held sherry, sauterne, port, or other wines. Others

have special "finishes" or multiple "maturations" that include wine. All of these practices raise kashrus concerns.

The cRc policy is that Scotch is permitted unless the label states that it is aged in a wine cask, has a special finish, or an extra maturation (as noted above). Consumers who wish to adopt this stance should read the label of each bottle before using it, and avoid wording such as double or triple finish, double or triple matured, dual casks or finish, European or French casks, Madeira finish, port, sauterne, or sherry.

The cRc listings of recommended Scotches follows a stricter standard than the one listed above, and only includes Scotches that are certified and/or are known to not have any contact with wine or wine casks.

## Soju

*Soju is a Korean distilled whiskey typically made from rice but sometimes includes other grains. It is not aged.*

Soju requires certification.

## Tequila

*Tequila is an alcoholic beverage produced in a specific region of Mexico by fermenting and then distilling the root of the blue agave plant. The alcohol in "100% Tequila" is made exclusively from blue agave, but the alcohol in "Tequila" must only be 51% agave, and the rest may be from sugar, piloncillo (a sugar cane byproduct), fructose or high fructose corn syrup. [A worm is only added to "Mescava" which is made elsewhere in Mexico.]*

*There are four varieties of tequila: Blanco (white/silver), Oro (gold), Reposado (aged, at least 2 years), and Añejo (extra aged, at least 12 months). The latter three varieties may contain caramel color and are permitted to contain added glycerin and sugar. In practice, it is believed that glycerin is only used by approximately 20% of producers, and is always used in such small quantities that it is batel in the finished product. All of them are permitted to have flavor and glycerin added; most have flavor added and all but Blanco usually have glycerin.<sup>32</sup>*

Unflavored tequila is recommended without certification unless the label indicates that it was aged or finished in wine casks.

## Vermouth

*Vermouth is brandy (wine which has been distilled to increase its alcohol concentration) which is flavored with botanicals and other materials.*

Vermouth requires certification since it is made from wine.

<sup>32</sup> The information in this paragraph is from the presentation of Rabbi Chaim Cohn at the November 2015 AKO Liquor Committee Meeting.

## Vodka

Vodka is made by diluting 95% pure alcohol in water until it reaches the desired alcohol level. Vodka is not aged. The 95% alcohol is typically not distilled by the vodka company (although some "re-distill" the alcohol) but is rather purchased as a ready-made ingredient.

The distillation required to create 95% pure alcohol removes all traces of carryover flavor from the original grain or sugar used to create the alcohol, and therefore this alcohol is referred to as "neutral spirits" or "GNS" – grain neutral spirits. Due to this lack of (non-alcohol) flavor, many vodkas are sold with flavor added (e.g. orange vodka).

Unflavored vodka is acceptable unless the label states that it is produced from grapes, wine, milk, lactose, or whey. Special attention should be paid to (a) vodka from France, New Zealand, and Australia, and (b) vodka which contains added flavor.

## Wine

When grape juice is fermented, the sugar within the juice is converted to alcohol to create "wine". When the same is done with the juice of other fruit, the finished product will be referred to by the name of the fruit used, e.g. "apple wine".

Wine, including fruit wine, requires certification.

## cRc Kashrus News

The cRc's Weekly Kashrus Shiur recently completed the halachos of

**הפרשת חלה**

Recordings from this series and previous ones are available on the cRc website at

<http://bit.ly/Shiurim>

**ע"ג**

We post a daily 100-word piece of information relevant to cRc Food Service Mashgichim in their WhatsApp group

Each week's 6 posts cover one topic

To receive these posts via email, sign up at

<http://kshr.us/KDSignUp>