

A Guide To Purchasing Chometz After Pesach



RABBI MORDECHAI FRANKEL
DIRECTOR, THE INSTITUTE OF HALACHAH

A Jewish-Owned Store That Did Not Sell Its Chometz To A Non-Jew For Pesach

The *Torah* forbids a Jew to own *chometz* on *Pesach*. In order to dissuade people from owning *chometz* on *Pesach*, there is a rabbinic injunction not to eat or benefit after *Pesach* from *chometz* which was owned by a Jew during *Pesach*. Such *chometz* is known as *chometz sheovar olov haPesach*, and it remains forbidden permanently.¹

For this reason, one should not buy *chometz* from a Jewish-owned store immediately after *Pesach*, unless the owner sold all *chometz* that he owned before *Pesach* to a non-Jew for the duration of *Pesach*, and did not acquire any further *chometz* during *Pesach*. The laws of *mechiras chometz* (selling *chometz* to a gentile for *Pesach*) are complex, therefore the sale must be made by a competent rabbi or *kashrus* authority.

If a Jewish-owned store did not sell its *chometz* for *Pesach*, may one buy *chometz* from that store a few weeks after *Pesach*? It is difficult for the consumer to ascertain whether the *chometz* was in the store on *Pesach* and is therefore forbidden, or whether it came into the store after *Pesach* and is permitted. Since *chometz sheovar olov haPesach* is a rabbinic injunction, one can be lenient if there is a reasonable doubt as to whether or not the *chometz* was in the store on *Pesach*. (This is because we apply the principle that “*safek derabbanan lekula*” – we are lenient when it is uncertain whether or not a rabbinic restriction applies).²

Supermarkets generally have a two week turnaround time. It should be assumed that all *chometz* sold in the two weeks after *Pesach* was already in the store on *Pesach*. Other stores, especially smaller ones, may have a longer turnaround time. The turnaround time for alcoholic beverages is longer than that of products in supermarkets. Liquor stores generally maintain inventory for six or seven weeks. One should wait until after *Shavuos* before purchasing liquor from such a store.

If one accidentally purchases *chometz* immediately after *Pesach* from a store that sells *chometz sheovar olov haPesach*, one may not derive benefit from that *chometz*. However, one may return it for a refund as the sale is a *mekach ta'os*, a mistaken sale. Returning the product does not constitute deriving benefit.

A Jewish-Owned Store That Sold Its Chometz To A Non-Jew For Pesach

As mentioned above, a Jew who owns a store can sell his *chometz* to a non-Jew for the duration of *Pesach*. If the Jew is observant and does not sell *chometz* to customers during *Pesach*, there is no doubt that he really intended to sell his *chometz* to the non-Jew before *Pesach*. However, if the owner is not observant and does not close his store for *Pesach*, it can be argued that he considers the sale of *chometz* to be a legal fiction and does not have real intent to sell the *chometz*. Nevertheless, *Rav Moshe Feinstein zt"l* *paskens* that, *bedieved*, the sale is valid because legally the *chometz* no longer belongs to him.³ However, other *Poskim* are stringent.⁴ Even *Rav Moshe* agrees that *chometz* that the Jewish owner purchased during *Pesach* is not included in the sale and cannot be eaten after *Pesach*.

A Store Owned By A Non-Jew Or By A Person That May Or May Not Be Jewish

If a privately-held store is owned by a non-Jew, one may buy *chometz* from that store immediately after *Pesach*. However, a consumer may not know whether the owner is Jewish or non-Jewish. If the store is located in an area where the majority of people are non-Jews, he may assume that the owner is not Jewish. Unfortunately, even if the owner has a Jewish sounding name, the rate of intermarriage in America is such that the name may no longer provide an indication as to whether or not the person is Jewish.

Some food stores are owned by a number of partners, or by shareholders who each have stock in the company. If non-Jewish partners or shareholders own a majority of the business, there is no concern of *chometz sheovar olov haPesach*.⁵ To the best of our knowledge, the following are currently some of the supermarkets which are majority owned by non-Jews, and *chometz* may be bought from them immediately after *Pesach*: **BJ's, Costco, CVS, Food Lion, K-Mart, Kroger, Mars, Petco, Petsmart, Rite-Aid, Royal Farms, Sam's Club, Save-A-Lot, Shoppers, Trader Joe's, Walgreens, Walmart, Wegmans, and Whole Foods.**



CONTINUED ON PAGE 6



A Guide To Purchasing Chometz After Pesach

CONTINUED FROM PAGE 5

A Store That Receives Chometz From A Jewish Distributor

How does a supermarket get the food that it sells? A distributor brings the food from the manufacturer to a warehouse, from where it is sent to individual supermarkets. If the distributor is Jewish, and he owned the *chometz* during *Pesach*, that food would be forbidden after *Pesach*. Even if the supermarket is owned by non-Jews, the food would still be forbidden after *Pesach*, as it was owned by a Jew during *Pesach*.

C&S Wholesale Grocers is a wholesale distributor of food and grocery store items. It is a privately held company, and is the largest wholesale grocery supply company in the United States. It currently serves about 5,000 stores in 15 states (including California, Connecticut, Florida, Indiana, Maryland, Massachusetts, New Hampshire, New Jersey, New York, and Pennsylvania). Its customers include Safeway, Target, A&P, Stop & Shop, Giants, Ralphs, Foodtown, and Winn-Dixie. However, the STAR-K does not have information as to which specific products are distributed by C&S, nor which specific stores are serviced by them.

The company was founded in 1918 by Israel Cohen and Abraham Siegel. Rick Cohen is the current chairman and CFO, and is the third generation of the family to lead the company. It is assumed that he is Jewish. In the past, a prominent rabbi arranged a *mechiras chometz* for C&S distributors. However, as mentioned above, according to Rav Moshe Feinstein zt"l this sale would not include the *chometz* that C&S acquired during *Pesach*. Recently, another prominent *Posek* has been selling the entire company to a non-Jew for the duration of *Pesach*, so that any *chometz* bought during *Pesach* would also belong to that non-Jew. While this sale is to be welcomed, it is not without *halachic* difficulties, and some feel that the sale of a multi-million dollar corporation for the duration of *Pesach* is *halachically* questionable.

Stores which receive goods from C&S may also work with other non-Jewish distributors, and it is very difficult to determine whether any particular product was distributed by C&S or by another company. As mentioned above, *safek chometz sheovar olov haPesach* is permitted,

and this would include goods which may or may not have been owned by C&S during *Pesach*. However, if a person has the option of shopping at a store which does not receive goods from a Jewish distributor that may have owned *chometz* on *Pesach*, it is commendable to do so until four weeks after *Pesach*.⁶

There are more than 35,000 supermarkets in America, and it is not possible to know who owns them or distributes to every one of them. A local Orthodox rabbi should be consulted for guidance regarding local stores and supermarkets, as well as resolution of any *halachic* issues.

A&L Foods is a Jewish-owned distributor of kosher food. A&L Foods sells their *chometz* to a non-Jew through the STAR-K and does not buy or sell any *chometz* during *Pesach*.

Buying Bourbon

The Sazerac Company is a privately held alcoholic beverages company, and is the largest distilling company in the United States. Although it produces a variety of alcoholic drinks, the primary focus of its business is bourbon. Although there is some discussion in the *Poskim*, the general consensus is that the prohibition of *chometz sheovar olov haPesach* applies to bourbon. To the best of our knowledge, the Chairman of the Board of Directors of the Sazerac Company is Jewish. Although the Sazerac Company recently began selling some of its *chometz* for *Pesach*, it will be eight to ten years before that bourbon comes to market. The Sazerac Company ages bourbon for years before selling it, so all their bourbon should currently be considered *chometz sheovar olov haPesach* and is not recommended year-round.⁷

1. Mishna Berura 448:25.

2. See *Igros Moshe* O.C. 4:96, which distinguishes between small and large Jewish-owned stores.

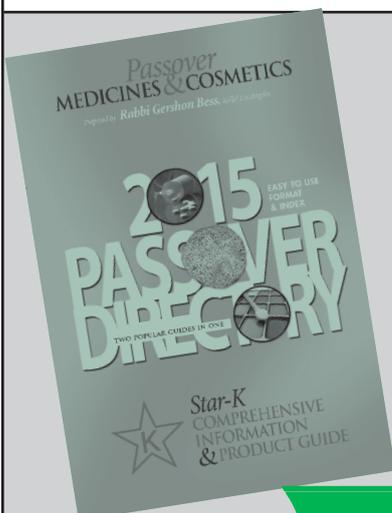
3. *Igros Moshe* O.C. 1:149, 2:91, 4:95.

4. *Maharam Shick* O.C. 205, *Sdei Chemed* vol. 7 page 352.

5. *Zeicher Yitzchok siman* 8.

6. Heard from *HaRav* Heinemann, *shlit"a*

7. A list of their products can be found at <http://www.sazerac.com/BrandPortfolio>.



A Pesach Must FOR EVERY JEWISH HOME!

STAR-K 2015 PESACH GUIDE

The *Pesach* Guide will be available in Jewish bookstores after *Purim*. Once again, the STAR-K Passover guide including the medicine list, will be available for online purchase to benefit Kollel Los Angeles

The STAR-K/Kollel Los Angeles *Pesach* 2015 Medicine and Cosmetics Guide is available for purchase as a digital App for Smartphone and Tablet Users in the The Google Play Store and on Apple iTunes.

A Project of Star-K Certification and Kollel Bais Avrohom Los Angeles

Leadership in



Kashrus Education