

HALACHICALLY SPEAKING

Volume 13 Issue 18



{ TOPIC }

Gambling in Halachah



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► Halachically Speaking is a monthly publication compiled by Rabbi Moishe Dovid Lebovits, a former *chaver kollel* of *Yeshiva Torah Vodaath* and a *musmach* of *Harav Yisroel Belsky zt"l*. Rabbi Lebovits currently works as the Rabbinical Administrator for the KOF-K Kosher Supervision.

► Each issue reviews a different area of contemporary *halacha* with an emphasis on practical applications of the principles discussed. Significant time is spent ensuring the inclusion of all relevant *shittos* on each topic, as well as the *psak* of *Harav Yisroel Belsky, zt"l* on current issues.

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Gambling in Halachah

Gambling is very widespread today. People go to casinos, and bet on horses and sporting events. They gamble at slot machines and play various card games. Until recently, gambling was not done on such a wide scale. However, it became legal in many states, and people can gamble on the internet as well in the comfort of their own home. The Jewish people are not immune from the issues that are associated with addictive gambling.

In this article, we will discuss the *halachos* of what kind of gambling is permitted and what is forbidden. Can one go to a Chinese auction, buy a lottery ticket, or enter a raffle?

Source — Opinions

The Mishnah in *Maseches Sanhedrin*¹ lists people who are disqualified from being a witness. One of them is a “*mesacheik b’kubiya*,” a dice player.²

The Gemara³ has a discussion as to why a dice player is disqualified from being a witness. Rami bar Chami says that a winner is considered as if stealing from the losing party.⁴ This is called *asmachta*, which means doing an action under the assumption that he will never have to pay,⁵ and it is not a valid acquisition.⁶ Each gambler agrees to pay but never really thinks he will lose, so when he hands over the

1 24b.

2 In regard to if one has to return the money won by dice playing see *Rema, C.M. 34:31; Sma 78, Aruch Hashulchan 20; Rivevos V’yovlos 2:243.*

3 *Maseches Sanhedrin 24b.*

4 *Rambam, Hilchos Gezeilah V’aveidah 6:10. See Rambam, Hilchos Eidus 10:4. Refer to Aruch Hashulchan, C.M. 207:23.*

5 *Rashi, Maseches Sanhedrin 24b “asmachta.”*

6 *Maseches Sanhedrin 24b.*

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money to the winner it is done unwillingly.⁷ This action is considered stealing on a rabbinic level.⁸

The opinion of Rav Sheshes is that there is no concern of theft.⁹ Rather, dice playing is not allowed because one does not contribute to society that way.¹⁰ Therefore, he is only disqualified if gambling is his only profession.¹¹ If he has another profession, then he is only gambling to pass time, and does not care if he loses.¹²

The Rambam¹³ says that one should busy himself with learning or other activities which contribute to the society in a positive manner.

When is it an issue of *asmachta* according to Rav Sheshes, in the following?

It is only an *asmachta* when you believe that you are in control of the outcome.¹⁴ If you do not have control it is permitted.

Asmachta only applies when you make a promise to convince the other party to trust you.¹⁵ Gambling involves a promise in which each gambler promises to pay if he loses, and receives a promise to be paid if he wins.

7 *Rashi*, *ibid*.

8 *Rambam* *ibid.*; *Rashi*, *Maseches Sanhedrin* 24b "hamisachek," "lo."

9 For cases that are *asmachta* in *Shas* see *Maseches Bava Basra* 168a; *Maseches Bava Metzria* 77b, 104b.

10 *Maseches Sanhedrin* 24b.

11 Refer to *Rif, Sanhedrin* 4b; *Tosafos, Ervin* 82a "amar"; *Mordechai, Sanhedrin* 3:690; *Rambam, Hilchos Eidus* 10:4; *Maggid Mishneh, Hilchos Eidus* 10:6. See *Haga'os Maimonios, Hilchos Eidus* 10:4.

12 *Maggid Mishneh, Hilchos Eidus* 10:6.

13 Explanation to *Mishnayos Maseches Sanhedrin* 3:3.

14 *Rashi, Maseches Sanhedrin* 24b "kol."

15 *Tosafos, Maseches Sanhedrin* 24b-25a "kol."

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Halachah

There are many *poskim* who rule like Rav Sheshes that dice playing is only forbidden as a profession.¹⁶ If one is doing it occasionally, it would be permitted (see below).¹⁷

The *Shulchan Aruch*¹⁸ holds that gambling of any sort is considered stealing. This is how the Sephardim conduct themselves.¹⁹ The Rema²⁰ permits it with limitations, as detailed below.

Non-Jews

One who gambles with a non-Jew has not transgressed any *issur*, but it is still not allowed since it is wasteful activity.²¹

Limitations of the Lenient Opinion

Although we mentioned the opinion of the Rema who permits recreational gambling, there are a number of limitations. It is only permitted if there is no skill involved, and the gambler does not feel secure that he will win. The result must be based on luck.²² Also, gambling is only permitted when the stakes are placed on the table before the betters,²³ and the table must be owned by both parties.²⁴

Poker

Although dice playing is not an *asmachta*, poker does

16 *Tur*, C.M. 34; *Aruch Hashulchan*, C.M. 207:25.

17 *Rif, Maseches Sanhedrin* 3b; *Tosafos, Maseches Erubin* 82a "omar."

18 C.M. 370:2-3. See *Sma* 3. Refer to *Shulchan Aruch O.C.* 320:6; *Mishnah Berurah* 22.

19 Refer to *Yabia Omer*, C.M. 7:6.

20 C.M. *ibid.* See C.M. 207:13.

21 *Rambam, Hilchos Gezeilah V'aveidah* 6:10.

22 *Rashi, Maseches Sanhedrin* 24b "kol," See *Rema*, C.M. 207:13.

23 *Ibid.*

24 *Ibid.*

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involve skill, and the player may think that he will win because of his skill. Therefore, it is an *asmachta* and not allowed.

Regarding internet poker, the money is not on the table so it would not be allowed, even if one wishes to argue that he is not using his skill.

Fantasy Sports

If one is playing fantasy sports for fun with no money, it is permitted. The results are often due to skill, so there would be an issue of gambling if money is involved.

Horse Racing

Many people go to the racetrack to bet on horses. If skill is involved it would be forbidden, but since the parties are non-Jews, gambling is not forbidden.

If one is doing it for fun, it may not be gambling, but it is best to avoid this activity as it is a total waste of time.²⁵

Slot Machines

In regards to slot machines, there are those who prohibit them since the gambler does not own the machines. Others consider it as if you own it, since the money is guaranteed if you win. It can be argued that it is considered that the money is in front of you as well.

Betting on Sport Events

Many people bet on sporting events, especially the super bowl. All the money should be placed in front of those who bet, and each person should be *koneh* the container that holds the stakes. However, if each person thinks he will win due to his talents and skills, then it would not be allowed.²⁶

²⁵ Refer to *Mishneh Halachos* 6:270.

²⁶ Refer to *Gray Matter* 1, p. 129.

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Lottery Tickets

Millions of people buy lottery tickets on a regular basis, and many Jews are included in this number.²⁷ Some *poskim* maintain that buying a lottery ticket is forbidden because of gambling.²⁸ However, there are many reasons to be lenient regarding lottery tickets.²⁹ It can be argued that the entire issue of *asmachta* is because you think you will win. However, when one buys tickets he knows he will probably not win.³⁰ Others argue that the winner receives money from the state, not from individuals.³¹ Another reason to be lenient is that the ticket itself has value.³²

Another point is that there is no prohibition when the parties have no connection to each other, because when one plays with someone he knows he is upset when he loses. Lottery players pay money ahead of time with full intent, and do not feel bad when they lose.³³ This may be a reason to be lenient regarding fantasy sports and online poker.

Tzedakah

Lotteries are permitted for *tzedakah* causes,³⁴ because the

27 In Hebrew a lottery is a call "*peyis*." Refer to *Meiri, Maseches Yoma* 22a which says where the word comes from.

28 *Yabia Omer, C.M.* 7:6; *Yalkut Yosef, O.C.* 10:318:41. In reference to a few people buying lottery tickets and agreeing to split it without making a *kinyan* between them see *Mishnas Yehoshua* 1:42.

29 Refer to *Mishpatei HaTorah* 1:28; *Mekabtzal* (journal) 28, pp. 247-252; *Tefillah L'Moshe* 5:58-59; *Mishneh Halachos* 15:176; *Yad Kohen (Chilukei Minhagim)* 2, pp. 281-312.

30 *Mishpatei Tishmaro* 16, p. 102.

31 *Yaskil Avdi, Y.D.* 8:5, p. 88; *Mishpatei Tishmaro* 16, p. 102.

32 *Teshuvos V'hanhagos* 4:311. See *Vayitzvar Yosef* 4:109.

33 *Teshuvos V'hanhagos* 4:311. Refer to *Pesukei Mishpat* 13; *Techumin* 5, pp. 301-302. Refer to *Techumin* 5, pp. 303-314 if a married woman won a lottery and its ramifications if it belongs to the husband. Refer to *Habe'er* 26, pp. 109-110 in regard to who keeps the prize if one was at a *simchah* in a hall and won a prize from under a bottle cap.

34 *Teshuvos V'hanhagos* 4:311; *Shevet Halevi* 9:200:1; *V'aleihu Lo Yibol* 2, p. 99. See *Gray Matter* *ibid*.

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rule of *asmachta* does not apply to *tzedakah*.³⁵ The reason is that the loser feels comfortable relinquishing his money, since he knows that it is for a good cause.

Additionally, when buying a raffle or lottery ticket for *tzedakah* the buyer consents fully to the sale at the time of purchase.³⁶ This is also true for Chinese auctions. Even if the buyer of the raffle would regret it, it is too late because he has already purchased it.³⁷

Bingo in Shul

Playing bingo is a waste of time. It should not be played in any part of the shul where *tefillah* takes place, even on occasion (room off to the side, etc.).³⁸

Lottery on Shabbos

Children like to gather on Shabbos and have *Pirchei* with a raffle or lottery for prizes. Is this permitted?

The halachah is that if one has equal pieces³⁹ of an item and he wishes to make a lottery or raffle to see who gets which portion, it is permitted if it is for his household.⁴⁰ However, it is not permitted for others⁴¹ since they may be jealous⁴² of one another and will measure the items.⁴³ Some

35 Y.D. 258:10; Taz 6. Refer to *Igros Moshe*, O.C. 4:76:2.

36 *Mishpatei Tishmaro* 16, p. 104.

37 *Mishpatei Tishmaro* 16, pp. 104-105. Refer to *Mishneh Halachos* 13:127. Also see *Mishneh Halachos* 6:71. When one wins something at a Chinese auction, even if he didn't need the item, many still give *ma'aser* from the value of the item if he can afford to do so (Harav Yisroel Belsky *zt"l*, see *Even Yisrael* 8:64; *Shevet Halevi* *ibid.*).

38 *Hadorom* (journal) 13, pp. 64-66; *She'eilos Yeshurun* 3. In regard to doing such activity in a sukkah see *Yalkut Yosef* 5, p. 142:11; *Avnei Yashpei* 5:90:4.

39 Since one doesn't gain from this it's not gambling (*Mishnah Berurah* 322:19).

40 Refer to *Maseches Shabbos* 148b-149a. See *Biur Halachah*, O.C. 322 "keivan."

41 However, giving to them without a lottery or raffle is permitted (*Magen Avraham*, O.C. 322:7, *Mishnah Berurah* 20).

42 See *Mishnah Berurah*, O.C. 322:21.

43 *Maseches Shabbos* 149a. See *Rashi*, *Maseches Shabbos* 149 "hamakpidim"; *Tosafos*, *Maseches*

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maintain that different size portions would not be permitted even for his household, since it is considered gambling.⁴⁴ This is not allowed even during the week, and it looks like business on Shabbos.⁴⁵ Other opinions permit this with the household, since they do not care about the outcome.⁴⁶ The Ashkenazim rely on this latter opinion.⁴⁷

Lotteries for a mitzvah to decide who gets an *aliyah* for *yahrtzeit* are permitted.⁴⁸

Most raffles on Shabbos benefit the shul, and one does not really care if he loses; therefore, there is no issue with making a raffle on Shabbos for boys who come to learn.⁴⁹

Children may play games for fake money on Shabbos, since the goal is for a game and not to earn money or gamble.⁵⁰

Communal Legislation against Gambling⁵¹

The Rivash⁵² writes, “It is four years now since the entire community gathered in the great shul and agreed to impose a ban of excommunication that no man or woman play any

Shabbos ibid. “*bnei*.”

44 *Mishnah Berurah*, O.C. 322:22. Refer to *Ritva*, *Maseches Shabbos* 149a.

45 *Mishnah Berurah* ibid.

46 *Shulchan Aruch*, O.C. 322:6. See *Chayei Adam*, *Shabbos* 38:12; *Mishnah Berurah* 23. Refer to *Nishmas Shabbos* 4:351; *Ohr Yisrael* (journal) 14, p. 60; *Natei Gavriel* (Chanukah) pp. 307-308 about playing dreidel on Shabbos Chanukah. See *Nishmas Shabbos* 6:410.

47 *Avnei Yashpei* 3:42:1. When there are learning groups taking place on Shabbos afternoon, giving out raffle tickets is permitted even if the raffle will be after Shabbos, since one was given the raffle tickets for the learning which took place on Shabbos. However, many have the practice to give out the tickets for learning on Motza'ei Shabbos (this is what Harav Yisroel Belsky *zt"l* did when he was a *Pirchei* leader on Shabbos).

48 Refer to *Nishmas Shabbos* 2:274, 4:351; *Chinuch Yisrael* 2, p. 715. See *Mishnah Berurah* 322:24; *Ketzos Hashulchan* 146:69; *Shoneh B'shoneh* (journal) 5750, pp. 184-187; *Avnei Yushpei* 3:42:6.

49 Refer to *Sha'arei Hora'ah* 6, pp. 44-49; *Ohr Yisrael* 54, p. 86.

50 *Pamei Yaakov* (journal) 44, pp. 132-133.

51 Refer to *Sinai* (journal) 48, pp. 111-122.

52 171. See *Maharshdam Y.D.* 84.

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game involving dice. One who violates this will bear his sin alone and the rest of Israel will be innocent.”

Other Sources about Moral of Gambling

The Rivash⁵³ says that gambling kills people. It is disgusting, abominable, repulsive, and it is addictive.

The *Biur Halachah*⁵⁴ says that someone who is concerned for his soul should distance himself from gambling.

The *Aruch Hashulchan*⁵⁵ says that whoever can stop from gambling will have great reward.

Harav Moshe Feinstein *zt”l*⁵⁶ said that it is a disgusting act and is like joining a gathering of scornful people.

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53 432. See *Radvaz* 1:214.

54 *O.C.* 670:2 “*v’nohagin*.”

55 *O.C.* 670:9.

56 *Igros Moshe, O.C.* 4:35.

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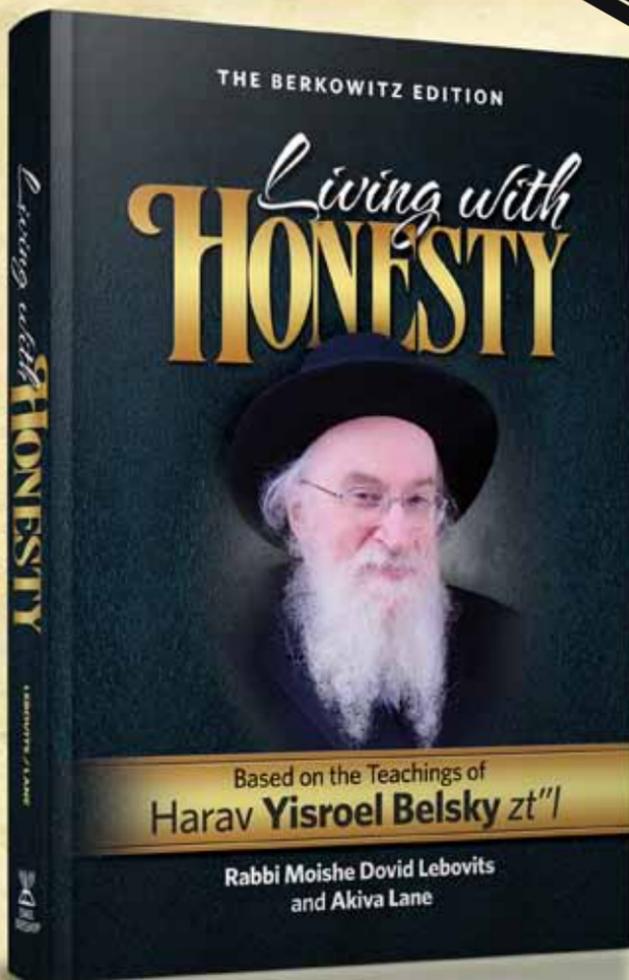
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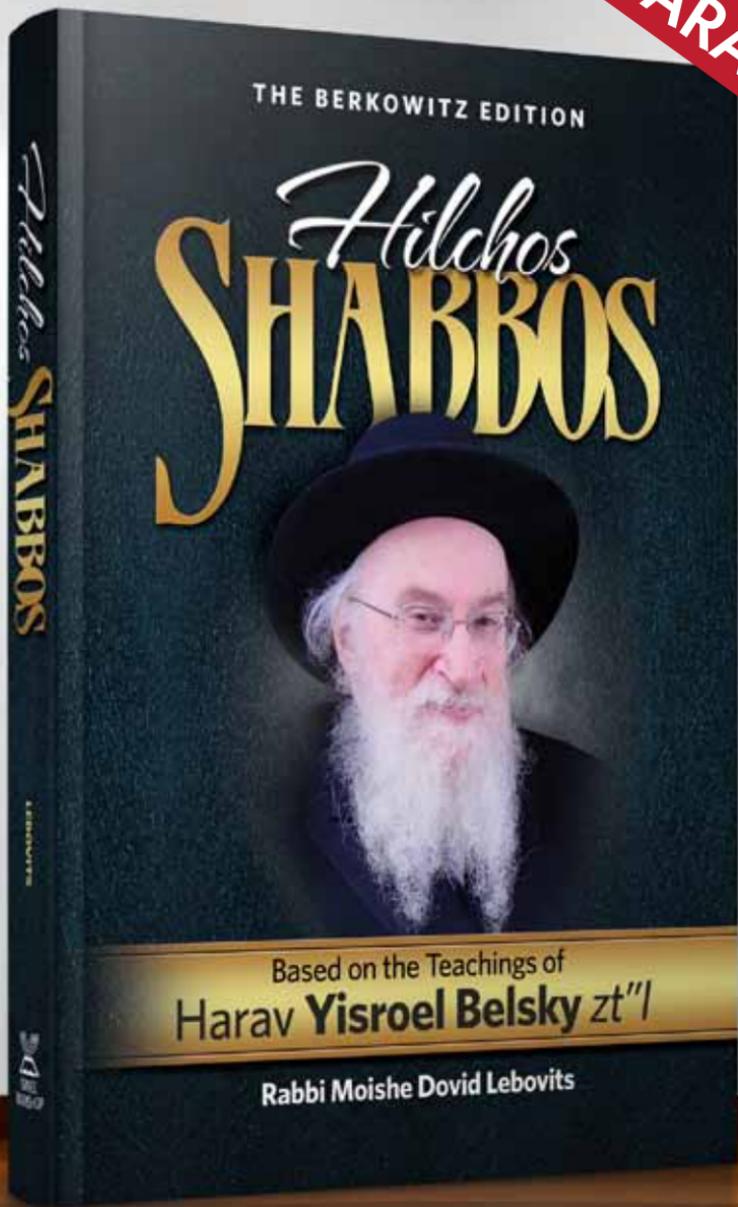


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