



# B'NAI DAVID-JUDEA

## Shabbat Shorts

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One last installment of the muktzah series, addressing a question that is actually more "*muktzah-adjacent*". This question arises when a Shabbat guest has driven to your home (as he or she is not personally Shomer Shabbat), and has brought a bottle of wine or a challah (for example) that is intended to be used during or after the meal. On the one hand, we wonder whether it is permissible for us to derive benefit from this item during Shabbat, and on the other hand we are concerned about possibly embarrassing or even offending our guest should we choose to not use it. Many times over the years I have received this question specifically in connection with non-Shomer Shabbat parents / grandparents who bring such things, which obviously makes it a very sensitive human and Halachic question.

There are numerous complexities to this halachic discussion, but here are the essential factors, and some practical conclusions.

- The primary opinion in Halacha (Shulchan Aruch) is that when a Jewish person performs a forbidden act on Shabbat, for example cooking or baking, we may not derive any benefit from that act's resultant product on Shabbat.
- When there is a pressing need though, we follow the opinion of the Vilna Gaon that if the forbidden act in question were committed *unintentionally*, then the resultant product may be used on Shabbat.

So far then, it seems that in our case above we would need to assess how severe the embarrassment or offense might be to our guest, and whether our guest's action could be termed an "unintentional" transgression of Shabbat. Let's also now introduce one more relevant factor:

- There is a debate among the Rishonim as to whether or not this discussion includes situations in which the forbidden act were merely one of transportation, rather than one of creation (such as cooking). Rashba, for example, rules that items that were merely transported in violation of Shabbat *may* in fact be used on Shabbat. And while the Shulchan Aruch adopts the more strict position (i.e. that there is *no* difference between "creating" and "transporting"), the Ba'al HaTanya adopts the Rashba's lenient position. Further, some authorities split the difference, taking the strict position when the transportation transgression was committed "intentionally", and the more lenient one when it was committed

"unintentionally' (for example, if a person transporting carried the item to your home not knowing that the eruv was down that Shabbat).

This factor too introduces some flexibility in a pressing situation, in particular if the person's actions can be construed as "unintentional".

To this point, and to offer some practical conclusions, I cite from Rabbi David Sperling's fine essay on this topic (you can find the whole essay [here](#) )

*There are opinions that claim that a non-religious person, even whilst being fully aware that religious law forbids a certain act, can still be considered an unintentional sinner. A non-observant person often takes the view that Jewish law is applicable only to "religious" Jews, and therefore he/she is not bound by it. Whilst this view is incorrect, it may justify describing these sins as "unintentional" - especially if coupled with the opinions that nearly all nonreligious Jews today are in the category of those [who transgress through] lack of education rather than rebellious disregard.*

*....in times of great need [then] ....we could add together the following three lenient opinions:- 1) it may be considered an unintentional sin (according to what we have just written), 2) the halacha may be in accordance with the Vilna Gaon who allows benefit from unintentional sins on Shabbat, 3) perhaps even in the cases of intentional sins, when the sin is done "with" the object (i.e. merely transporting it) as opposed to being done "to" the object (e.g. cooking), one can benefit from it on the Shabbat itself.*

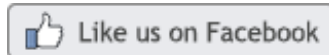
Bottom line: While we need to assess each case as it unfolds before us, there is certainly room to be lenient on the Hilchot Shabbat end and to be stringent on the "not publically embarrassing others / hurting the feelings of others / shalom bayit" end.

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