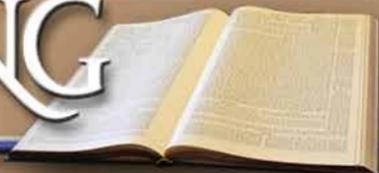


# HALACHICALLY SPEAKING

Volume 12 Issue 3



{ TOPIC }

## OPENING STORES NEXT TO EACH OTHER



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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 Shlita*. 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, Shlita* on current issues.

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# OPENING STORES NEXT TO EACH OTHER

In the larger Jewish enclaves, each neighborhood has many pizza and food stores, as well as many shuls and *yeshivos*. Are there any restrictions to opening stores, shuls and *yeshivos* in the same area? Does it make a difference if many similar stores are all located in one area, such as a garment district? What are the restrictions regarding opening up stores in the same neighborhood if the customer base is not large? In this issue we will discuss the topic of opening stores next to each other.

Please note that these *halachos* are very intricate; we will present an overview of the *halachos*, but if one has a question he should present it to his *rav*.<sup>1</sup>

## Moral Issues

Aside from the halachic aspect of this topic, there are moral reasons why someone should think carefully before opening a competing store in an area where he might cause someone a loss of money.

The Gemara<sup>2</sup> counts eleven principles that Dovid Hamelech outlined. One of them is that one should not enter the profession of his friend and compete with him.<sup>3</sup>

The Gemara<sup>4</sup> says that one who makes someone else lose his livelihood is like a murderer.

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1. One of the most common areas of *dinei Torah* is in the area of competition between stores (Harav Yisroel Belsky *shlit"á*). Regarding restaurants, it is easy for them to come to *Beis Din* to deal with these issues since the *hechsher* would remove the certification otherwise.

2. *Makkos* 24a.

3. See *Tehillim* 15:3. Refer to *Pischei Teshuvah C.M.* 156:3.

4. *Yevamos* 78b.

איזן על להקדיף ה' בעולמו אלא די אמות של הלכה בלבד... (ברכות ח')

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כל השנה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (גדה עב)

The Rambam<sup>5</sup> says that the business dealings of a *talmid chacham* are to be straight and he must be a man of his word. He addresses the issue of not entering the profession of one's friend.<sup>6</sup>

We believe that the money we are going to make each year is decreed on Rosh Hashanah.<sup>7</sup> Therefore, if a competitor opens a store, one should feel secure that he will earn enough money.<sup>8</sup>

## The Term

Opening a store next to someone else is called "*hasagas gevul*." This is borrowed from the Torah's term of *hasagas gevul*,<sup>9</sup> which refers to encroaching on someone else's property (according to many in Eretz Yisrael).<sup>10</sup>

## Source

The Gemara<sup>11</sup> discusses competing stores, specifically opening a mill in the same *mavuy* (neighborhood). Rav Huna says that the first person can argue, "You are stopping my livelihood." Rav Huna Brei D'Rav Yehoshua maintains that the second person can argue, "Whoever will come to me will come to me, and whoever will go to you will be your customer."<sup>12</sup>

5. *Hilchos Dei'os* 5:13.

6. Refer to *Teshuvos HaRama* 10.

7. *Maseches Beitzah* 16a.

8. Refer to *Chazon Ish Emunah U'bitachon* 3:15.

9. *Devarim* 19:14. See also *Devarim* 27:17, *Sefer Chassidim* 586, *Sifrei Shoftim piska* 188.

10. Refer to *Minchas Chinuch* 522, *Rambam Hilchos Geneivah* 7:11, *Sefer Hamitzvos to Rambam* 246.

11. *Bava Basra* 21b. See *Maseches Sanhedrin* 81a. The *Chasam Sofer C.M.* 79 says this is part of the *issur* of stealing.

12. Rashi *Maseches Bava Basra* 21b "shani."



## How We Rule

The *poskim* maintain that we rule like Rav Huna Brei D'Rav Yehoshua since he is the latter opinion and it is in accordance with the view of the majority.<sup>13</sup> However, this is not a blanket *heter* as will be discussed below.<sup>14</sup>

## Same Neighborhood / City

The above discussion is only true if the second person is from this city,<sup>15</sup> but if he lives in another city<sup>16</sup> he is not allowed.<sup>17</sup> However, if he pays local taxes<sup>18</sup> then there is no

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13. *Tosfos Maseches Bava Basra* 21b “*peshita*,” *Ritva Maseches Bava Basra* 21b, *Rashba Maseches Bava Basra* 21b, *Rif Maseches Bava Basra* 11a, *Rambam Hilchos Shecheinim* 6:8, *Rosh* 2:12, *Aruch Hashulchan C.M.* 156:6-7. See *Be'er Sarim* 1:25, *Pischei Choshen Geneivah* 9:page 260.

14. For a nice discussion on this topic, see *Even Hamishpat* 1:26, *Journal of Halachah and Contemporary Society* 5, pages 6-29, *Minchas Tzvi* 1:17, 2:5, <http://www.jlaw.com/Articles/hasagatgevul.html>, *Emek Hamishpat* 4:18, *Mishpatei Chaim* 1:20, *Vayomer Shmuel* 64.

15. It is questionable as to what is considered the same city even in New York, such as Flatbush to Boro Park and Brooklyn to Queens (Harav Yisroel Belsky *shlit"a*). It is very common to open a branch of a store which originated in one's own city when a family member who lives in a different city wishes to branch out and open and run the same store in another city. This is common when a married child lives in Lakewood, etc. and wishes to open a store in Lakewood, although the owner (his parents) have the original store in New York. If there is a partnership where the local person has a certain percentage it is permitted (refer to *Nachlas Shivah* 2:2, *Pischei Teshuvah C.M.* 156:4, *Vaya'an Dovid C.M.* 5:86, *Mishnas Yehoshua* 11).

16. Such as when one comes from New Jersey to New York each day to work (Harav Yisroel Belsky *shlit"a*).

17. *Maseches Bava Basra* 21b, *Rosh* 2:12, *Rambam Hilchos Shecheinim* 6:8, *Shulchan Aruch C.M.* 156:5.

18. Refer to *Ritva Maseches Bava Basra* 21b, *Rabbeinu Gershom* 21b, *Hagaos Ashri* 2:12, *Bach* 156, *Beis Yosef*, *Shulchan Aruch C.M.* 156:5, *Gra* 156:23, *Aruch Hashulchan* 8. Some mention that the reason paying taxes allows one to open in an area is because in earlier years the properties were owned by the king and paying taxes to him allowed one to rent the area to sell his items. If one did not pay taxes, the land would be taken away from him. In addition, when one paid taxes he would have the right to the area, and not another person who did not pay taxes (*Chasam Sofer C.M.* 61). Today, taxes are dealt with differently and it does not make a difference if the owner of a specific property lives in the city where his store is as long as he pays taxes to

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issue.<sup>19</sup> The Gemara does not discuss whether there are any limits even if he pays taxes to the local municipality.<sup>20</sup> Furthermore, the Gemara discusses a situation where they are from the same city but a different neighborhood, and it ends off without giving an answer. We are stringent.<sup>21</sup> Therefore, one who lives in a different city but pays taxes cannot open in the same area, but can open in the same city.<sup>22</sup>

## Fish Nets

The Gemara<sup>23</sup> rules that once someone spreads fish nets, nobody else may place a net within a *parsah* (the distance to walk seventy-two minutes).<sup>24</sup> Rashi<sup>25</sup> explains that the fish that would have entered the first net will now enter the second net. In this case, the first person is definitely losing out. The *Nemukey Yosef*<sup>26</sup> says that sometimes it will go from one trap to the other.<sup>27</sup>

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the city, etc. Therefore, even if one does not pay taxes he is dealt with by the city and has no connection to his friend who opens a competing store (refer to *Minchas Tzvi* 2:5:page 154, see *Pischei Choshen Geneivah* page 271:footnote 11. See *Even Hamishpat* pages 410-411, 415). Some say that one will not be able to legally stop someone from another city from opening in his city if he does not pay taxes (*Maharashdam C.M.* 407, see *Maharshdam C.M.* 441, *Even Mishpat* pages 450-451).

19. *Maseches Bava Basra* 21b, Rambam *Hilchos Shecheinim* 6:8, *Shulchan Aruch C.M.* 156:5.

20. *Maseches Bava Basra* 21b, *Shulchan Aruch C.M.* 156:5, *Rama* 5.

21. *Shulchan Aruch C.M.* 156:5. See *Shitah Mekubetzes Maseches Bava Basra* 21b.

22. *Tosfos Maseches Bava Basra* 21b "ei," *Rama C.M.* 156:5. (Some require the second store owner to live in the city as well [*Tur C.M.* 156, *Rama C.M.* 156:5, see *Shulchan C.M.* 156:5 which is lenient. Refer to *Mishpatei Chaim* 1:20:pages 174-175 which says even according to the Rama it would be permitted today if the tax payer does not live in the city where he operates the store]). See *Drishah C.M.* 156:15.

23. *Bava Basra* 21b.

24. Refer to *Minchas Tzvi* 2:5:page 165 in a case where the owner of the second store does not do any action to pull away customers from the first store.

25. *Maseches Bava Basra* 21b "shani." See Meiri *Maseches Bava Basra* 21b.

26. *Maseches Bava Basra* 11a "bar."

27. See Rashba *Maseches Bava Basra* 21b, Ritva *Maseches Bava Basra* 21b, Ran

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There are *poskim* who do not mention this halachah.<sup>28</sup> The Rif and Rambam do not mention this either. However, it is brought in *poskim*.<sup>29</sup>

A modern example of this would be someone who is trained by his employer, and uses his training to open a competing business. He has all the clients that he dealt with at his first employer, and will very likely put his employer out of business. This should not be done.<sup>30</sup>

## Dead End

The *Mordechai*<sup>31</sup> says that if a store is located at the back of a dead-end alley, then one may not set up a store in the beginning of that area, since people will go exclusively to this store. Others say that this is only if you hold like Rav Huna, but we hold like Rav Huna Brei D'Rav Yehoshua, so this case would be permitted.<sup>32</sup> Nevertheless, even though

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*Maseches Bava Basra* 21b. Refer to *Ri Migash Maseches Bava Basra* 21b.

28. Refer to Meiri *Maseches Bava Basra* 21b (we don't hold like the stringent view).

29. *Maharshal* 35, *Mases Binyomin* 27, *Chasam Sofer C.M.* 79, 118, *Even Hamishpat* pages 411-412.

30. Refer to *Chashukei Chemed Maseches Bava Basra* 21b, *Minchas Tzvi* 2:5:pages 167-168. See *Shevet Halevi* 4:220, *Minchas Yitzchak* 2:94. Going into a competing store and asking a customer who is ready to pay for an item to come to your store for a better price is not allowed. If one is just shopping around without making a decision yet it may be permitted (see *Emek Hamishpat* 4:page 292). In addition, there is a discussion that if one is an exclusive distributor of an item another person may not contact the manufacturer and tell him to use him for distribution. (Refer to *Rama C.M.* 156:5, *Aruch Hashulchan C.M.* 156:18, *Tzemach Tzedek C.M.* 37, *Sridei Eish* 1:136, *Divrei Chaim C.M.* 1:20, 2:40, 2:51, *Emek Hamishpat* 4:18:page 289, *Minchas Tzvi* 2:5:pages 162-163.)

31. *Maseches Bava Basra* 515 quoting this as the opinion of the Aviasaf. See *Hagoas Maimonios Hilchos Shecheinim* 6:8:8.

32. Refer to *Beis Yosef C.M.* 157. Refer to *Minchas Tzvi* 2:5:pages 155-156 which mentions that this may only be talking in a case of a flour mill where it makes noise and if one were to open a mill in the beginning of the alley the people would hear the noise and go to that one and not to the original mill. However, a store even at the end of the dead end can advertise, etc. to the locals about his services and it may not be eliminated by the new store which opens at the beginning of the dead end.

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we are lenient in general in most cases, in this case we hold like the *Mordechai*.<sup>33</sup> The reasoning is that when there is a guaranteed loss of money, we follow the ruling of Rav Huna.<sup>34</sup>

If the first store is located on a regular street, then it is permitted to open two stores since in this case the new store will not make the original store go out of business.<sup>35</sup>

### Eliminating Someone Else's *Parnassah*

From the above, it is clear that one may not start a business near another such store if it will definitely destroy the other person's business.<sup>36</sup> This is even according to the lenient opinion of Rav Huna Brei D'Rav Yehoshua.<sup>37</sup> If it will just decrease the first store's profits, it is allowed.<sup>38</sup>

Loss of livelihood is not defined by a loss of one's home or the ability to put food on the table. It means interfering

33. Rama C.M. 156:5.

34. *Teshuvos Rama* 10. Refer to *Minchas Tzvi* 2:5.

35. An example of a situation which may put someone out of business is an apartment building which has a store on the second level and someone opens the same type of store on the ground level which people pass as they enter the building (*Kiryas Sefer* 20-21:page 39).

36. Harav Yisroel Belsky *shlit"a*. Refer to *Ri Migash Maseches Bava Basra* 21b, Rama (*Teshuvos*) 10, *Pischei Teshuvah* C.M. 156:3, *Chasam Sofer* C.M. 79, *Igros Moshe* C.M. 1:38, 2:31. See Rashba 3:83. There are those who are lenient, though (see *Pischei Teshuvah* C.M. 156:3). One needs to judge every case and see if the second store will in fact really make the first one go out of business. One needs to determine what is the potential market which the stores will service. If the second store has a big one-time sale it would be permitted since it would not make the first store go out of business (refer to *Minchas Tzvi* 2:5:page 158). In the non-Jewish world major chain stores are taking their toll on smaller stores in the neighborhood and causing many of them to close (see <https://ilsr.org/impact-chain-stores-community/>, [http://www.capecodcommission.org/resources/economicdevelopment/Are\\_Chain\\_Stores\\_Bad.pdf](http://www.capecodcommission.org/resources/economicdevelopment/Are_Chain_Stores_Bad.pdf)).

Whether there is an *issur* for buyers to purchase items at the location which is driving the first store out of business, see *Even Mishpat* pages 434-441 in depth.

37. See *Pischei Teshuvah* C.M. 156:3.

38. *Chasam Sofer* C.M. 61 and 118, *Teshuvos V'hanhagos* 1:800, 4:308. Refer to *Even Hamishpat* pages 420-421.

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with his ability to afford as much as an average person in his times.<sup>39</sup>

There is a possibility that if there is room for both stores to survive but one is not run well, then it would be permitted to have both stores in the same area.

## Pursuing Someone Else's Customers

One is not allowed to actively pursue another person's customers. This is comparable to the fish nets.<sup>40</sup> However, advertising your business is permitted, even if customers will leave the first store. Additionally, one may give out candies and other incentives to attract customers, since the competition can do so as well.<sup>41</sup>

A common example can be found in Eretz Yisrael,<sup>42</sup> where many people do not have cars and taxi cabs line up at bus stops and offer their services, thus causing the bus company to lose a customer. On the other hand, it can be argued that the taxi is offering a higher quality service, free of noise, disturbances, and frequent stops. In addition, many times the buses are not on time or there are no seats when it arrives. This issue is not a simple matter and one should ask his *rav*.<sup>43</sup>

If one is giving rides just for *chessed* purposes and not for

39. *Igros Moshe C.M.* 1:38. For more on this see *Minchas Tzvi* 2:5:pages 156-157.

40. *Rashba* 3:83.

41. *Maseches Bava Basra* 21b, *Shulchan Aruch C.M.* 228:18, *Shulchan Aruch Harav Hilchos Hefker V'hasagas Gevul* 13.

42. This is also common when people are waiting for a bus that takes people from Monsey to Manhattan, from the Catskills to Brooklyn, etc. or even at a local bus stop of the MTA.

43. Refer to *Pischei Choshen Geneivah* page 269:footnote 7, *Shiurei Halachah L'rofim* 1:pages 151-152, *Chashukei Chemed Maseches Bava Basra* 21b, *Minchas Tzvi* 2:5:pages 170-171, *Even Hamishpat* pages 460-462, *Be'er Chanoch* pages 81-83, *Kol Hatorah* 43:pages 263-270 in depth.

livelihood then it may not be allowed.<sup>44</sup> Others are lenient in this regard.<sup>45</sup>

## Non-Jew

There is a discussion in the *poskim* if the halachah whether the restriction applies is applicable when the first store is owned by a non-Jew.<sup>46</sup> One should be stringent in this regard.<sup>47</sup>

## Cheaper Prices<sup>48</sup>

People should not have to overpay for an item. Therefore, one may open a second store if he is going to charge less for an item.<sup>49</sup> In addition, if the quality of the second store is preferable then he may open.<sup>50</sup> This would be true even if a second storeowner were from a different city.<sup>51</sup> This is

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44. Based on this one would have to think whether running a *gemach* is correct since otherwise people would possibly buy the items offered for free by the *gemach*. On the other hand, the items offered by the *gemach* would not make a local business close, and many would not buy the items new in any case.

45. *Pischei Choshen Geneivah* 9:page 269:footnote 7, *Minchas Tzvi* 2:5:pages 170-171.

46. Refer to *Pischei Choshen Geneivah* 9:footnote 1, *Shraga Hameir* 5:56:7.

47. Refer to *Chasam Sofer C.M.* 20.

48. For an in-depth discussion on cheaper prices, see *Even Hamishpat* pages 441-447.

49. *Aruch Hashulchan C.M.* 156:11. Refer to Rashi *Maseches Bava Metzia* 60a "zechor," *Beis Yosef C.M.* 156:7, *Rama C.M.* 156:7, *Shulchan Aruch C.M.* 228:18, *Pischei Teshuvah C.M.* 156:11, *Mishpatei HaTorah* 2:10, *Yeishiv Yitzchak* 4:39, 11:65, *Teshuvos V'hanhagos* 1:800. In regard to lowering prices so much to drive competitors out of business, see *The Jewish Ethicist* pages 74-76.

50. *Rama C.M.* 156:7. This is based on the fact that the store owner is doing well for the buyers. (*Tur C.M.* 156, *Rama C.M.* 156:7). Refer to *Chelkas Yaakov C.M.* 9 about a store near a yeshivah which sells food items and someone in the yeshivah wants to open a canteen in the yeshivah.

51. *Aruch Hashulchan C.M.* 156:11, *Avnei Yushpei* 2:100. See *Even Hamishpat* pages 442. This is common when people import items from China which are usually much cheaper than the local manufacturing. Many times businesses in homes which sell items such as children's clothing are cheaper than the stores. This is permitted since the home store will not drive anyone who is selling these items in a store out of

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common in certain areas where people are learning in *kollel* and a store opens to provide them with cheaper prices than the surrounding supermarkets.<sup>52</sup>

If the first store was offering a competitive price, and he cannot go lower and still make a profit, the new competitor may not open.<sup>53</sup>

Lowering prices for a short period of time, like a grand opening sale, is not considered unfair pricing.<sup>54</sup>

## Different Products

The entire discussion of opening a competing store next to an existing store is if the two stores will be selling the same items.<sup>55</sup> If the second store will be selling many other items which are not sold in the first store he may open.<sup>56</sup> This is even if he lives in a different city.

## Better Hechsher

A second food store that offers a higher standard in kashrus may be opened even if the first one cannot survive.<sup>57</sup>

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business (*Be'er Chanoch* page 68:28, see *Cheshev Ha'efod* 1:90). Whether an apartment building can have two different home-based businesses selling similar items (such as children's clothing), even if one sells items of higher quality, see *Mishnas Yehoshua* 10.

52. Refer to *Even Hamishpat* page 463, *Pischei Choshen Geneivah* 9:pages 272-273:footnote 18, *Teshuvos V'hanhagos* 4:308, 5:372. One should not open the second store with the intent to drive the first store out of business.

53. Refer to *Even Hamishpat* pages 444-447.

54. *Teshuvos V'hanhagos* 4:308.

55. Sometimes a bakery will open next door to a bagel shop, or a higher-end bakery next to a simple bakery which has fewer items. What needs to be determined is if these stores are the same or not.

56. Refer to *Sma C.M.* 156:23, *Pischei Teshuvah C.M.* 156:12, see *Even Hamishpat* pages 447-449.

57. *Teshuvos V'hanhagos* 1:801. Refer to *Darchoi Mishpat* 10:page 165:footnote 15. See *Be'er Sarim* 1:25, *Mishpatei HaTorah* 2:10.

כל השווה הלכות בכל זום מובטח לו שהוא בן עולם הזה... (תדה עב)

## Business Districts

Manhattan is famous for its different business districts, such as garments and diamonds. Every store in that district sells the same thing. It is permitted to open a new store in the district (even if they are all Jews) since this is the address for this item.<sup>58</sup> This helps business since customers come from all over to these places. This can be true for streets which thousands of people pass daily (such as Avenue M and Avenue J in Brooklyn as well as Central Avenue in Long Island, and Cedar Lane in Teaneck, New Jersey and other such locations) and have multiple pizza stores and bakeries (in many cases even on the same block).<sup>59</sup> The rationale for this is that since people come from all over to shop at these stores, it is known to be the place to buy all kinds of items and competition between opening other stores does not apply.<sup>60</sup> In addition, these stores are for the most part located in areas where there are so many people passing that there is enough business for everyone, as opposed to small communities which may not have enough people to support multiple pizza stores, bakeries, etc.

## Internet / Insurance Agents

These restrictions do not apply to opening a competing website, since the marketplace is so large on the web that it is not likely the second website will put the first website out of business.<sup>61</sup>

58. *Gray Matter* 1:pages 117-118.

59. Refer to <http://businesshalacha.com/en/newsletter/business-competition-1>. Harav Yosef Dov Soloveitchik zt"l allowed multiple pizza stores to open in same area (*Gray Matter* 1:page 114).

60. Refer to *Shulchan Aruch C.M.* 156:7, *Aruch Hashulchan C.M.* 156:10. See *Even Hamishpat* pages 410-411:footnote 6, *Be'er Chanoch* page 62.

61. *Gray Matter* 1:page 118.

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Wholesale and mail order businesses,<sup>62</sup> or any business which does not serve the local population exclusively but attracts customers from afar, may compete anywhere.

In addition, someone from a different city may advertise his business in a local paper even if there is already the same store in the city where the paper is sold or given out if it is a cheaper price or offers delivery, etc. which is not done by the original store in the area.<sup>63</sup>

This also applies to insurance agents since they are not based in neighborhoods.

## Yeshivah

Even according to the stringent opinion, it is permitted to open a yeshivah close to another one.<sup>64</sup> We apply the rule “*kinas sofrim tarbeh chachmah*,”<sup>65</sup> and each yeshivah will work harder with their students due to the competition.<sup>66</sup> This is true even if the first yeshivah has to go out of business.<sup>67</sup>

62. *Minchas Tzvi* 2:5:page 158.

63. *Be'er Chanoch* page 69:31-32.

64. *Maseches Bava Basra* 21b.

65. *Maseches Bava Basra* 21a, 22a.

66. Rashi *Maseches Bava Basra* 21b “*v'modeh*,” Rosh 2:12, Rama C.M. 156:6, Y.D. 145:22, *Chasam Sofer* C.M. 79. Refer to *Chazon Ish Emunah U'bitachon* 3:1, *Maasei Ish* 1:page 56.

67. Refer to *Aruch Hashulchan* C.M. 156:9. See *Pischei Teshuvah* C.M. 156:17, *Darchei Mishpat* 10:page 167:footnote 23, *Shiurei Halachah L'rofim* 1:pages 150-151. Refer to *Reshumei Ahron* 1:page 84:156:1 which says this would also apply to a girls' school. Whether this concept would apply to other mitzvos see *Even Hamishpat* pages 449-450. In regard to how this applies to a rebbe see *Aruch Hashulchan* Y.D. 245:19, *Minchas Yitzchak* 4:75, *Igros Moshe* C.M. 1:60, *Minchas Shmuel* C.M. pages 114-115. There is a discussion in regard to whether this concept applies to kashrus agencies, since on one hand they are offering kosher food, which is a service for the public, but it is a business as well in which case this concept may not apply. Refer to *Mishneh Halachos* 16:74 in regard to a *mohel*. In regard to how this applies to a *shochet* see *Mishpatei Shmuel* 33.

## New Shul

Harav Moshe Feinstein *zt"l*<sup>68</sup> was asked whether it is permitted for people to break off and open another shul within close proximity of another shul. Their complaints were that the first shul has a different *nusach* and they do not like the *rav's* ways. He rules that if the neighborhood cannot afford two shuls, and the *rav* of the first shul will lose his livelihood, then it is forbidden, even if the complaints are valid.<sup>69</sup> In many communities there are numerous shuls and there is no loss of livelihood for any of the other shuls. In addition, the more shuls in a large community the better it is, since it is appealing for people who wish to move into a specific area.<sup>70</sup>

The same is true for a community *kollel* which wishes to build next to an existing shul.

Harav Ephraim Greenblatt *zt"l* holds that is prohibited for the *kollel* to invite congregants from the shul to come and *daven* in the *kollel*. In many places this can lead to the eventual closing of the established shul. It is preferable for the *kollel* people to *daven* in the shul and have a positive influence on the congregants.<sup>71</sup> Harav Schachter *shlit"a* also maintains that it is preferable that the *yungeleit daven* in the established shul. If the people feel that the pace

68. *Igros Moshe C.M.* 1:38. Refer to *Igros Moshe C.M.* 2:40:2. See *Avnei Nezer O.C.* 36, *Chashukei Chemed Maseches Bava Basra* 21b, *Mishneh Halachos* 9:367, 17:1212. Refer to *Rama C.M.* 162:7. Refer to *Igros Moshe* *ibid.* where it mentions if the shul is opening as a non-profit then the original shul which is a *shtiebel* would certainly be able to stop them from opening.

69. See *Meros Yesharim* 1:36. Refer to *Shaarei Ezra* 2:131 about two rabbis in same area selling *chametz*. In regard to how this applies to different *rabbanim* in a community see *Rama Y.D.* 245:22, *Shach* 15, *Chasam Sofer Y.D.* 230, *Pischei Teshuvah* 11, *Meishiv Davar* 2:8, *Tzitz Eliezer* 10:37, *Divrei Yatziv C.M.* 52, *Kol Mevaser* 1:8, *Techumin* 5:pages 285-286.

70. In fact, in Flatbush alone there are over 200 shuls, and Boro Park has many shuls even on one block.

71. *Journal of Halachah and Contemporary Society* 46:pages 55-56.

כל השווה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (גדה עב.)

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of the *davening* is too quick in the shul, then it would be appropriate to start another *minyán* where the *davening* is at a slower pace. This second *minyán*, however, should be located in and be part of the same shul, cautions Harav Schachter *shlit"á*.<sup>72</sup>

## Kashrus

When there is a local *Va'ad Hakashrus* in a town, another person cannot open up a different *Va'ad* if it will put the first one out of business.<sup>73</sup> Many times there are a few local *rabbanim* who work in a community and certify manufacturing companies, and there is a lot of room for all to make a living.

## Sefarim Store

If a neighborhood has a *sefarim* store, a second store may only be opened if the neighborhood can support two *sefarim* stores.<sup>74</sup> In many communities there are numerous *sefarim* stores and all can make a nice living, but it is obviously dependent on the size of the community.

## Playgroup

It is common for a community to have many playgroups and one may open an additional one near an already established one. Each playgroup has different qualities to offer and it is not considered an issue of opening a competing one in the community.<sup>75</sup> In any case, one should consult with his *rav* before opening a competing playgroup.

72. *Journal of Halachah and Contemporary Society* 46:pages 55-56

73. Refer to *Igros Moshe C.M.* 2:39, 40:1. See *B'mareh Habezek* 2:page 182:119.

74. *Igros Moshe C.M.* 2:31, *Yad Moshe* page 268, *Yugel Yaakov* page 308. Refer to *Darchoi Mishpat* 10:footnote 1, *Mishnas Yehoshua* 12.

75. *Shiurei Halachah L'rofim* 1:page 149, *Minchas Tzvi* 2:5:page 159.

איזן עיל להקצי"ה בעולמו אלז יז אמות של הלכה בלביד... (ברכות ח)

כל השנה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (תדה עב.)

## Doctor

One can walk into any community and see hundreds of doctors' offices. One is allowed to open a practice next to already existing one. Each doctor has what to offer patients and it is not included in the issue of opening a store next to another.<sup>76</sup> In any case, one should consult with his *rav* before opening a competing doctor's office.

## One-Stop-Shop Supermarkets

It is very common to have a one-stop-shop supermarket where there is fish, bakery, take-out and other services. Many times other smaller stores will go out of business if these one-stop shops open since they can't compete with the service, etc. However, since the supermarkets sell other items which the local deli, etc. does not sell, such as groceries and other items, it will not be considered the same kind of store. In that case there is no issue with the one-stop-shop supermarket selling his deli items.<sup>77</sup> One should consult with his *rav* if this situation arises.

## Yom Tov Food Distribution

Before Yom Tov, it is very common for *chessed* organizations to give out a lot of meat, potatoes, and other food and non-food items to make it easier to get through the Yom Tov expenses. This is permitted even if the one giving out the food, etc. does not live in the city and it may cause a bit of loss of revenue to the local stores. The intent is not to cause the store's loss, only to give presents to the locals who can't afford the costs in the store. In addition, this is not

76. *Shiurei Halachah L'rofim* 1:page 150, *Chashukei Chemed Maseches Bava Basra* 21b.

77. Refer to *Minchas Tzvi* 2:5:page 158, 168.

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considered opening a store within a community that already has a store.<sup>78</sup>

## Window Shopping

It is very common for one to go window shopping in a store. As long as one went in with the intention to buy something, a different store owner who sells the same items can ask the potential customer to come to his store instead. The one who is window shopping is not considered the customer of the store yet.<sup>79</sup>

## Pious

Even in cases where it is permitted to open a competing store, the *Shulchan Aruch Harav* rules<sup>80</sup> that it is a pious act not to do so. However, if both stores can survive, then there are no reservations.

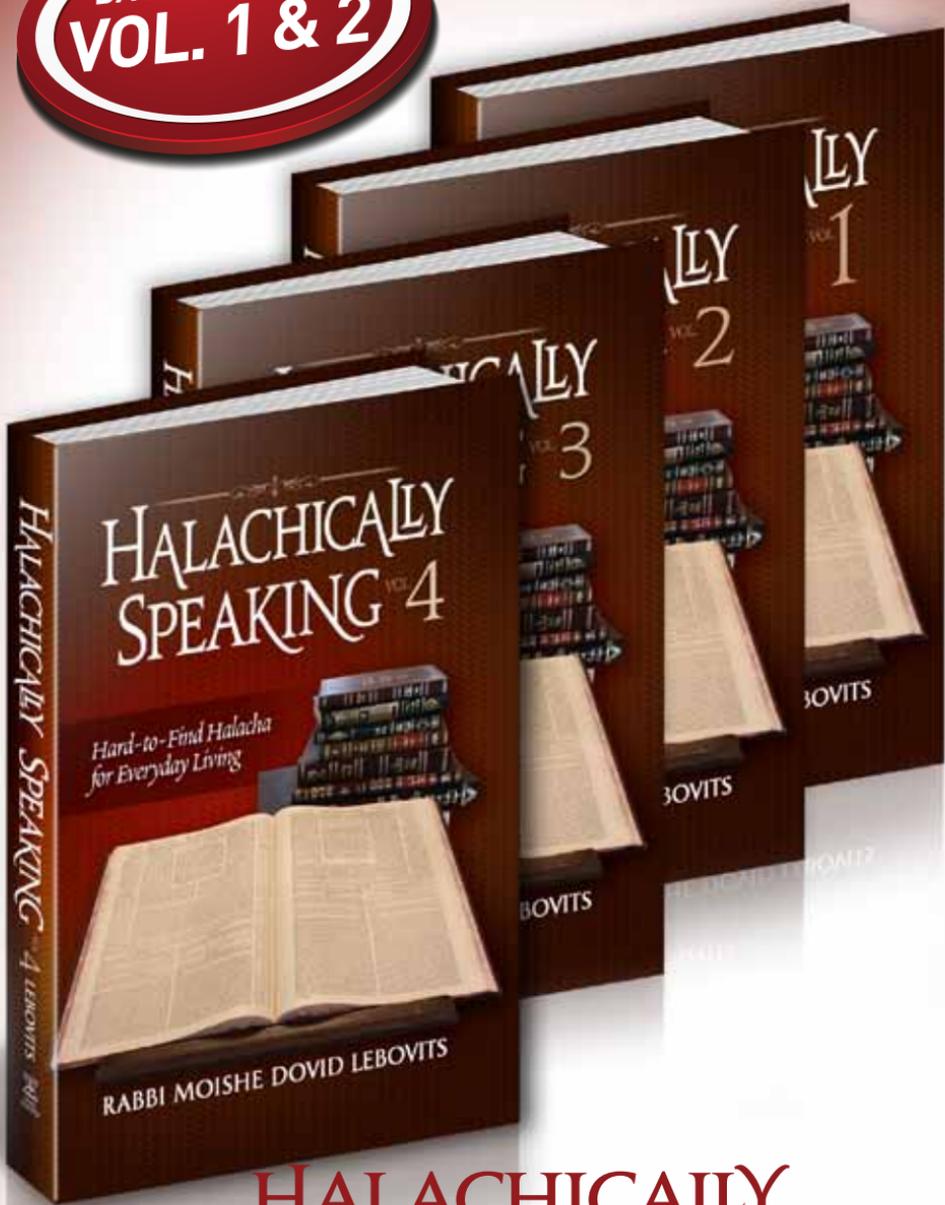
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78. *Be'er Chanoch* 1:page 67:24.

79. *Minchas Tzvi* 2:5:page 170, *Even Hamishpat* page 422. See *Teshuvos V'hanhagos* 4:312, *Halichos Chaim* 2:page 165:342, *Pischei Choshen Geneivah* 9:page 266. Refer to *Pischei Teshuvah C.M.* 237:3.

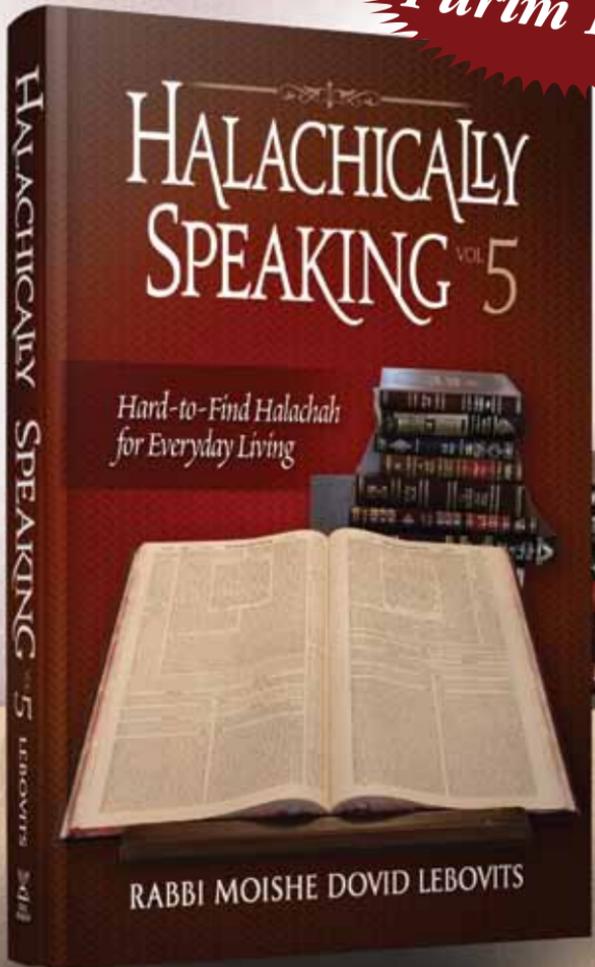
80. *Hilchos Hefker V'hasagas Gevul* 13. Refer to *Even Hamishpat* pages 456-458. There is no pious act if one is opening a second store which has cheaper pricing (*Even Hamishpat* page 459).

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