

HALOCHOSCOPE TOPE

May one “soften” a “freeze-pop” on Shabbos? May liquid freeze-pops be frozen on Shabbos?

A freeze-pop is a long thin pouch of flavored and colored sweetened water, which is bought in liquid form and frozen by the consumer. When it is taken out to be eaten, some people beat it to soften the ice, making it like a “slushy” drink.

The issues:

(A) Crushing ice on Shabbos

(B) Making ice on Shabbos

(C) Is a freeze-pop considered colored and flavored ice?

(A) *Crushing ice on Shabbos*

The Talmud forbids crushing ice or rubbing snow to produce water on Shabbos. There are mainly three views on what the prohibition is based on. All agree that it is not forbidden Scripturally, but Rabbinically.

One view considers it a Rabbinical form of *Makeh Bepatish*, finishing an article. This is a Melacha when done to complete the manufacture of an item. For example, after having been formed, a metal pot is not used until it is beaten smooth all around. Therefore, even after the basic utensil is finished it is still forbidden to add the finishing touches. Makeh Bepatish, according to most Poskim, does not apply to foodstuffs that are completed. However, there is a view that the production of water by melting ice resembles Makeh Bepatish and was thus forbidden Rabbinically. It is as though the water was not yet complete in its frozen form, and has been formed by melting it.

A second view, based on the same thinking, explains it slightly differently. Since a new product is formed it is considered *Nolad*. A newborn animal is *Muktze*, forbidden to move or use (benefit from) on Shabbos. It must be assumed that one could not have had in mind before Shabbos to use it on Shabbos because it did not yet exist. Anything that one does not intend to use on Shabbos, whether it is normally used for forbidden activities, it is an unfinished material, it is too valuable to use for personal uses, or for any other reason one would not normally think of using it, is *Muktze*. In the same way, an item that came into existence on Shabbos is *Muktze*, called *Nolad* for this reason. Apart from newly

born animals or newly laid eggs, there are other types of Nolad. For example, milk milked on Shabbos or ashes produced from a fire kindled (by a gentile) on Shabbos are Nolad. Another type is an item that existed in one form, then has drastic changes made to it, for example, cloth sewn into a garment (by a gentile) on Shabbos, or a glass broken to the point that it no longer serves its original purpose.

The third main view on melting is that it is a Rabbinical extension of the Melacha of *Sechita*, squeezing or pressing. Scripturally, this Melacha applies to squeezing grapes and olives, purposely planted for their juices. Though the Poskim debate the status of other fruits planted for their juices, such as lemons, many are of the opinion that they too are only Rabbinically forbidden to press or squeeze. If ice is crushed to produce water, or snow is rubbed, a liquid drink is derived from a solid food. Though it is not extracted, it is forbidden due to its similar purpose.

Putting ice into a cup of water is permitted. Firstly, the “new” water is immediately *Bateil*, neutralized by the majority of old water. Secondly, according to the opinion that considers melting *Sechita*, one may do Rabbinically forbidden *Sechita* into a cup with a liquid in it, since the juice is not collected but merges with another food or liquid. Furthermore, the intention is not to melt the ice, but to cool the water. Though it will inevitably melt, known as a *Psik Raisha*, in combination with the other factors, the Rabbinical restriction is mitigated somewhat by the lack of intent. In addition, the ice melts by itself, unlike melting it in one’s hands. The latter two reasons should permit using water from ice-cubes that melted in a bowl without other water. Nonetheless, one should avoid relying on these reasons alone. Pouring water or any liquid over an ice cube also melts it slightly. The melted ice quickly merges with the drink. However, those who consider the reason to permit adding ice to water due to its melting by itself would not allow pouring water on to melt it directly. To satisfy this view, some always put the drink in first.

In terms of Nolad or a Rabbinical form of Makeh Bepatish, the main consideration is the creation of something different than the original material. In this respect ice and water are considered different from their original forms. Each has a different name and is used differently. Other foods that are frozen or thawed out do not change, either in name or function. Frozen milk is simply the liquid frozen, as is frozen chicken soup. Accordingly, if the name and function of an item does not vary with its solid or liquid forms it should not pose a problem of Nolad or Makeh Bepatish. One should be allowed to freeze or thaw milk and chicken soup.

The Poskim discuss *Pastida*, a meat pie that is cold and has solidified fat on it. One wishes to warm it on Shabbos. There is a view that forbids eating it warmed

up due to the melted fat. Some explain, the cold fat could be eaten only as part of a *Pastida*. One would not eat the solid fat alone. Once warmed and melted, one would eat the fat as a liquid delicacy. Therefore, the melted fat is considered Nolad, since in this form it is newly fit to be eaten.

In terms of Rabbinical *Sechita*, too, a new form and use of the food must be “extracted.” A food that is eaten when solid and is considered no different melted may be thawed out. Thus, jelled broth may be warmed (slightly, but not to the point of *Bishul*, cooking) so that it becomes runny. Accordingly, if a frozen food can be shown to be considered the same frozen or liquid the problems of Nolad and *Sechita* would not apply to it. It would then be permitted to crush it or melt it outright.

(B) Making ice on Shabbos

Freezing water does not raise the issue of Rabbinical *Sechita* at all. However, it does raise the issue of Nolad. Making ice cream is forbidden by consensus of the contemporary Poskim. It happens to involve more issues than Nolad, including *Lash*, kneading. Ice cream that is already made may be frozen, at least according to some Poskim. They also permit melting it if one does not wish to eat it frozen. Thus, it would be permitted to eat soft ice cream. Unlike the fat in *Pastida*, it can be eaten both soft or hard. Freezing things like solid food, such as chicken or meat, is permitted as such. If it is done intentionally for use on another occasion, it could involve *Hachanah*, but might be permitted when it is being put away anyhow. Thus, rather than putting it away in a fridge to avoid spoilage, one would be allowed to put it directly into the freezer.

Making ice cubes is debated by the Poskim. Some permit it, some forbid it under all circumstances, and some permit it only on very hot days, when there is little choice. [See Shabbos 51b, Poskim. Rambam, Shabbos 21:13. Tur, Bais Yosef, Shulchan Aruch Orach Chaim 318:16-18, 326:10, 253 Magen Avraham 32, (R. Akiva Eger, Pri Megadim Eshel Avraham 40). Kalkeles Shabbos. Tzitz Eliezer VI:34 VIII:12 IX:14 28 XII:34. Beer Moshe II:25. Machaze Eliyahu 68:2. Shmiras Shabbos Kehilchasa 1:37(109) 10:2-9. Halochoscope I:27 46 II:47.]

Freeze pops might therefore be permitted to freeze on Shabbos. Freezing them should be permissible according to the discussion so far. Softening them by banging them or beating the wrapper should also be permitted, especially since they are really eaten solid, liquid, or a mixture, as in our case, according to preference.

(C) The status of the liquid beverage

In our case, the pouch of “beverage” is really water. It has sugar in it, which

could mean that it is drunk for the sugar. It has artificial flavors, and colors. It is also drunk, or rather eaten, specifically for its coldness. Assuming it is considered a food in its own right, one would expect its primary function to be eaten frozen. However, it is also sucked on as a liquid especially since it often melts very quickly. It is more like something eaten in both solid and liquid form. The main issue, therefore, is whether it is glorified water, which it really seems to be, or whether its special name and status can determine its Halachic status as well.

A number of issues are discussed by the Poskim with regard to drinks that are made up primarily of water. These include their *Brocha*, whether they are included in the *Terumah*, tithe obligation of the food that flavors them, whether they may be drunk before *Shacharis*, whether they may be used for *Havdalah*, and the like. Many drinks are based on water but are treated as independent drinks in their own right. These include beer, which is water that has had fermented barley, malt in it, coffee or tea, which is water flavored with the cooked grounds or leaves, beet juice (borscht), prune juice, and even soda pop, to name but a few. The Talmud discusses *Temed*, a product made with pulp from squeezed out grapes and water. The issue is whether the finished product has more volume than the water used. When discussing Brochos on other water flavored by foods, the issue is the purpose of the flavoring, or why the food is eaten flavored. Another issue is whether the purpose of the drink is to satisfy thirst, or whether there is an additional intent. For example, some drinks are drunk for social reasons. Some are drunk for medicinal reasons, or to raise one's spirits. Some are drunk for their flavor. In general, if a drink has a specific purpose other than satisfying thirst, this is often enough to affect its Halachic standing despite its high water content. [See e.g. Brochos 38a 39a Baba Basra 96b, Poskim. Tur, Sh. Ar. O.C. 202:10-11, commentaries, etc. Kutros Tavlin 6-12.]

In our case, the Halachic standing of water is that frozen and liquid water are considered two separate items. Chicken soup is considered one item either way. It would appear that the flavoring and coloring do change the nature of freeze pops. This is why people eat them instead of ice cubes. Therefore, they assume an identity of their own, and would not be compared to ice and water. Accordingly, in combination with the considerations mentioned in the earlier sections, softening them and freezing them would both be permitted.