



THE 'KOSHER SWITCH'

A BRIEF HALACHIC

REVIEW

Originally Published For Ami Magazine



Preamble

Recently, *Ami*'s Yossi Kraus wrote a superb article about the tumult surrounding the Shabbos "Kosher Switch," advertised to allow certain electrical devices and lights to be turned on and off on Shabbos *mi'l'chatchilah*.

By now most are aware that the major *poskim* have rejected this creation out of hand and that the *rabbanim* contacted by *Ami* who

were on record as approving the device actually had a far more nuanced position than was initially understood.

In talking with many people about this new device and the controversy surrounding it, I have found that many well-meaning and sincere people think the *poskim* are looking for ways to forbid this device even though it may not actually be problematic halachically.

The fact that some *poskim* have considered the idea of allowing such a device for *cholim* and the infirm only works to strengthen the notion that the concern here is merely “pseudo-halachic.” The belief among many is that although the idea of using this device may sully the spirit of Shabbos as we know it, it does not breach any *halachah*. Among the terms that have come up in these discussions are “*zilzul Shabbos*” and “the spirit of Shabbos.”

Since this invention is on people’s minds, I feel we can turn it into an opportunity. In this brief monograph I will seek to review issues surrounding this device, *hilchos Shabbos* and *piskei halachah* (the second part of last week’s chewing gum article will have to wait).

My hope is that readers will come away with much more than a visceral reaction to this device. I hope they will gain a keen understanding of why many of our greatest *poskim* have spoken so harshly against this invention, why its use presents a real halachic problem, and why some (but by no means all) may wish to allow its use for those who are infirm.

Among other things, we will discuss the following questions:

What is *grama*? Is it allowed on Shabbos? Is the Kosher Switch, as is claimed, even less than a *grama* (“un-*grama*,” as it is termed)?

How does this device compare to other famous *grama* devices, such as the Yom Tov-mode oven and the Shabbos wheelchair?

When is halachic novelty embraced and when is it shunned?

Let me state clearly that, as the Noda B'Yehudah states about much more serious innovations, it is not our place to assert that that the inventor of the Kosher Switch had anything but the best of intentions. Like many before him, he likely simply wished to create a device that would make Shabbos observance easier for many (although hopefully without giving the impression that Shabbos law is a “nuisance, a problem to be solved,” as Rav Belsky writes).

While his invention is far more radical than, say, the Shabbos lamp (which I take along on my travels),^{*} I have no doubt that his desire was to help people without breaching *halachah*.

But did he succeed in his noble task?

To introduce the topic, I would like to discuss briefly exactly what a rabbinic ruling, or *d'Rabbanan*, is as it relates to *hilchos Shabbos*. This is working under the temporary assumption that *zilzul Shabbos* is the main issue relating to this invention, and that *zilzul Shabbos* is but a *derabanan*. The reader should however note that Rav Moshe Feinstein argues that *zilzul Shabbos* is in fact a violation of the positive *mitzvah d'Oraisa* (biblical mitzvah) to honor Shabbos.[†]

D'Rabbanans on Shabbos: A Unique Category

The terms “*uvdah d'chol*” and “*zilzul Shabbos*” are hard to outline and circumscribe. Does this generic category not open itself up to capricious and mercurial rulings? Would wearing sneakers

* When the Shabbos Lamp came out I was asked to give a *shiur* on it. Not knowing how it worked, I guessed that one moved the center bar which was attached directly to the bulb thereby turn the light so that it can obstructed or visible. This is of interest for two reasons: 1) I misunderstood the mechanics of an item I had yet to see for myself; and I must admit that I have not seen the Kosher Switch either first-hand. However, I have spent some time researching how it works, which I did not do by the lamp. 2) Thinking as I did about the Shabbos Lamp, the question of its usage would hinge upon the debate regarding if the rabbinical ban against moving candles on Shabbos applied to electric lights. Rav Moshe is quoted on this issue in only two places, Artscroll and Feldheim's works on *muktzah*. In Artscroll's Laws of Muktzah (Rav Cohen) Rav Moshe is quoted as allowing the moving of a flashlight et al. whereas as Feldheim's work on this same topic (Rav Bodner) quotes him as prohibiting this action! See the article by this author, 'English Likutim and Psak Halacha', for further details.

for a far walk on Shabbos be a problem? What about throwing a football on Shabbos? In fact, the Chazon Ish is quoted as ruling that these are indeed pragmatic principles and that in each generation our leaders alone choose how and where to apply them.

We will talk more about *zilzul Shabbos* next week, but for now let's take a moment to consider that these are halachic terms sourced in the Gemara. A *rav* who asserts that the Kosher Switch is a rabbinic issue of *zilzul Shabbos* is in effect applying a very real, and necessary, rule of Shabbos observance—or, more aptly stated, of Shabbos survival.

While not a *melachah*, *zilzul Shabbos* represents an aspect of the Shabbos experience that often goes unnoticed—the general category of *d'Rabbanans*. There is even a special title given to *d'Rabbanans* that is exclusive to *hilchos Shabbos* and not used anywhere else—*shvus* (plural *shvusim*).

Remarking on this special term, the Gemara exhorts us in the name of Rav Yochanan not to take these types of *d'Rabbanans* lightly² since even certain *mitzvos* are pushed aside for their protection. Many *Rishonim* prove from various sources that rabbinical law, while always critical, plays an even more serious role when it comes to *hilchos Shabbos*.

Chazal say as much. The *Mechilta*,³ in two places and based on two separate *pesukim*, seems to make the point that *shvusim* are, if not actual *d'Oraisas*, somewhere in between rabbinic and Torah law. The *Ritvah*⁴ says that they are “*k'issurei Torah*,” like Torah prohibitions.

The latter *Mechilta* gives us a source for the shift from the typical term “*d'Rabbanan*” to the Shabbos term “*shvus*”:

“*The verse says, ‘Ach es Shabsosai tishmaru’*. What does this pasuk come to add? From the pasuk ‘Lo saaseh kol melachah,’ we would know to refrain only from the melachos (of Shabbos). From

where do we know to abstain from shvusim as well? Therefore, the Torah here tells us ‘Shabsosai,’ to include prohibitions of shvus.”

Ritvah⁵ and Ramban⁶ try to understand how it is possible that *d'Rabbanans*, at least as they relate to *hilchos Shabbos*, could ever carry the weight of a Torah law. They both give a fascinating illustration of what the Shabbos experience would look and feel like without *Chazal*, without any *shvusim*. Here is the powerful picture painted by the Ramban:

“[Shabbos would be] a day of measuring produce and weighing fruit; moving utensils and [heavy] stones from place to place...and within courtyards; [Jews] riding upon animals; the marketplace would be filled [with Jews] active in commerce; [Jewish] money-changers and lenders would be out in the markets; [Jewish] day laborers would be rising early to be hired in the marketplace... Shabbos and Yom Tov would turn into a weekday...”

Without the Torah exhorting us to follow the decrees of the *Rabbanan*, especially on Shabbos, Shabbos as a day of *menuchah* would simply vanish! There is therefore a positive Torah mitzvah to guard the spirit of Shabbos, which *Chazal*—going back to Moshe Rabbeinu—began doing through the creation of rules, guidelines and procedures that were accepted throughout the generations, until they were all codified and organized in the *Gemara*.

Surprising though it may be, even the prohibition of working on Shabbos—arguably the touchstone of Shabbos observance—does not involve any *melachah* but falls under the rubric of *shvus*. The concern involving working is that of *mekach u'memkar*, buying and selling, which may lead to *kesivah*, writing, one of the 39 *melachos*.

Otherwise, what would be the Torah *issur* of working? (Only rabbis get to work on Shabbos!)

Our relationship with Shabbos was designed by the Torah to be this way, so that even the maxim “Ain’t gonna work on Saturday” is rooted in a *d’Rabbanan* (or *shvus*).

Now that we have a better idea why the use of a device that involves no *melachah* may still be considered a major violation of Shabbos, and why if so it is the rabbis who get to decide this, we can move on to the rabbinic rulings that may be violated by its use. We will also investigate whether any actual *melachah* is at risk.

Zilzul Shabbos and Beyond

We pointed out above that even if *zilzul Shabbos* were the only issue with the Kosher Switch, Rav Moshe Feinstein contends that disgracing or dishonoring Shabbos itself is an *issur mi’d’Oraisa*.

While largely unrelated to the issue of the Kosher Switch, an apt illustration would be Rav Moshe’s ban on most Shabbos Timers.

A ruling that many do not accept, it nevertheless serves as an important template for what a *posek* must consider in evaluating new technologies. For those who argue with Rav Moshe relating to timers do so largely based on his application of his concern but not due to the concern itself, as we will now explain.

Some question whether Rav Moshe, in banning most timers, is enacting a new *gezeirah*.⁷ However, as technology advances at a rate so stunning that it is on the verge of producing driverless cars, some of Rav Moshe’s arguments must be made known to the public so that we can better deal with the questions of tomorrow.

Rav Moshe explains that he is actually not introducing anything novel but is simply extending an existing *halachah*. One of the explanations offered by the *Rishonim* for the limitations on *amirah l’akum* is that without this clear prohibition, this red-line, Shabbos

would disappear, since one could then perform any weekday task by asking a non-Jew to do it. He therefore writes,

“There is no greater zilzul Shabbos than this...and it is clear that if the Tanna’im and Amora’im were here today, they would enact this ban (on timers)... And in any case, (timers) likely already fall under the rubric of (the existing halachah of) amirah l’akum.”

In 1977, when this *teshuvah* was written, Rav Moshe already saw a future in which technology, just like the allowance of *amirah l’akum*, could cause the holy Shabbos to fade away. While many argue that timers do/did not have this effect, one cannot ignore Rav Moshe’s larger point as we move into the realm of grander and more profound technological possibilities.

Indeed, it is a sad situation when even prominent atheists around the world are writing scathing articles about the Kosher Switch, wondering how we could miss the fact that in order for religion to survive, there must be a concept of the “spirit of Shabbos.”

Furthermore, even Rav Shlomo Zalman Auerbach, who does not accept Rav Moshe’s *chumrah* as it relates to timers, explains that a timer is certainly not allowed for the performance of a noticeable task that is not done that way during the week either. To decide to use a timer to send a text, for example, which is not typically done during the week, would certainly be forbidden on Shabbos if it would be noticeable to others.⁸

The use of a device that does not look radically different, in either appearance and action, than it would during the week, with the claim that its internal mechanism is now allowable on Shabbos, is of great concern since such use would not stop at light switches.⁹

Thus far we have three concepts: A) *Zilzul Shabbos* is an extremely serious violation. B) The Chazon Ish explains that the definition of *zilzul Shabbos* is left to the *poskim* of each generation.

C) Even if one could argue that the use of a device like the Kosher Switch does not constitute *zilzul Shabbos*, its ramifications must be taken into account, with a view to what Shabbos would look like in 20 and even 200 years from now if we used it. This is part of our role as *shomrei Shabbos*, the guardians of Shabbos.

Now for the meat and potatoes—the actual halachic concerns about the Kosher Switch.

Gramma

Gramma is too difficult a subject to explain fully. For our purposes, we will work under the assumption that *gramma* means either an indirect or delayed (re)action.

Now, it is true that it is not possible to cook two pieces of chicken by rubbing them together to create self-generating heat. Cooking and a few other activities among the 39 *melachos* are *always* performed by way of *gramma*, a delayed process, and yet they are forbidden!¹⁰

So what is the source of the idea that an act performed by *gramma* is less of a halachic concern?

*Chazal*¹¹ teach that one may put out a fire on Shabbos using certain types of *gramma*. From here the *Shulchan Aruch*¹² rules that *gram kibuy* (extinguishing a flame, which is a *melachah*) through a *gramma* is allowed. This rule is true for the other 38 *melachos* as well.¹³

However, it would seem that other *melachos* are, by their very nature, performed through *gramma*, and yet they are prohibited. In fact, another Gemara¹⁴ gives the example of winnowing (throwing grain into the air so that the wind filters out the chaff), which is clearly performed through *gramma*. The Gemara says that although as far as the laws of damages are concerned one is not liable for *gramma*, in the case of Shabbos one *is* liable!

How do we reconcile these two *gemaras*, one teaching that *grama* is allowed on Shabbos and the other that it is forbidden (biblically)?

A number of *Rishonim* and *Acharonim* offer varying approaches, but the Rama¹⁵ cites the view of the Mordechai that *grama* is allowed on Shabbos only when there would otherwise be the possibility of financial loss.

However, the *Shulchan Aruch*—who does *not* say that the possibility of financial loss is necessary to allow *grama*—appears to hold that *grama* is always permissible on Shabbos (and he accepts other approaches to the contradictory *gemaras*).

But even according to the *Shulchan Aruch*, allowing the use of a device because of *grama* would still not be so simple, as can be seen from other rulings of his. He states,¹⁶ for example, that one may not open a door near a candle because the wind that comes in may extinguish it.

But wouldn't this be *grama*, which he allows in all cases?

Rav Shlomo Zalman Auerbach explains¹⁷ that when a *melachah* would occur naturally but something is keeping it from happening (e.g., a door is holding back the wind) and one then comes and removes that blockage, *that is not called a grama* even according to the *Shulchan Aruch*!¹⁸

With this in mind, let's take a closer look at the Kosher Switch. The switch works by creating a temperamental yet inevitable light pulse that is paired as a receiver and a transmitter. In order to turn on the light, these two must communicate. When an impediment is placed between the transmitter and receiver (the “switch”), that light pulse is blocked. The creators claim that by removing that impediment, which is just a simple piece of plastic, only when the indicator is green—which means that there is no current light pulse anyway—one is not only avoiding a *grama*, but even less than that; it is what they call “ungrama.”

I agree! It is not a *grama*, because removing an impediment is *assur*—and likely at the biblical level!

What about the fact that the Kosher Switch notifies the user before he lifts the impediment that there is no current light pulse? Wouldn't this make the act permissible? In the case of wind, it is only *assur* to open the door when one knows there is currently a breeze outside. Wouldn't it be true that in the case of the Kosher Switch, although we know that the “wind” will eventually arrive, the green light tells us that it isn't there at this moment?

The Magen Avraham proves in the case a temperamental wind that is not currently active would make no difference. Later, the *Shulchan Aruch* teaches that one may not open a door even near a large flame or torch, out of concern that there may be an exceptionally strong wind. He points out persuasively that if we are concerned about a rare exceptional wind *that has not yet and may never occur* the entire Shabbos, then we are certainly concerned about an average wind that continually waxes and wanes, and will certainly reappear in moments!

While the Gra and most others¹⁹ follow this rational argument, there are a few who are lenient when it comes to opening a door if there is currently no wind. This is what prompted the Chofetz Chaim to say that in cases of need one may be lenient. Now we can understand why some allow this device for the sick and infirm.

Melachah

But what about the many *poskim* who do not even allow this device for the sick, claiming that its use fully violates a *melachah*?

The first thing to keep in mind is that there is a misconception among many that *grama*—regardless of the ambiguity regarding when it is allowed—at the very least automatically removes the violation from the biblical category. At worst, they say, one who performs an *issur Shabbos* through *grama* is only violating a *d'Rabbanan*.

The consensus is that this theory is mistaken. Rav Shlomo Miller, in an important article written for the Torah journal *Yeshurun* nine years ago, explains why. A case of *grama* is either allowed on Shabbos (to prevent financial loss only, according to Rama) or it is *assur mi'd'Oraisa*; there is no in-between.²⁰

Furthermore, Rav Chaim Ozer²¹ and many others point out that even when *grama* is allowed on Shabbos, it would only be in a case where one's main goal is not to perform that *melachah* (in the case of fire, it would only be permissible to place pitchers of water around the fire for the purpose of *stopping* it, not to put it out).

Further, Rav Shlomo Zalman taught²² that even when *grama* is allowed, it would not be permissible to use it consistently for a particular purpose. (The Zomet Shabbat Scooter, created *upon the suggestion and with the involvement* of Rav Shlomo Zalman, has a power button that operates through *grama*, which is allowed, even according to the Rama, for someone infirm. But the scooter itself is powered by modulating currents—an entirely different halachic subject regarding which Rav Shlomo Zalman has always ruled leniently. Indeed, many people with hearing aids raise and lower the volume on Shabbos based upon the same halachic principal.²³)

Rav Chaim Ozer, and to some extent Rav Isser Zalman Meltzer,²⁴ explain that the performance of a *melachah* through a *grama* (even an allowable one) on a consistent basis becomes pure *meleches machsheves*—the essence of *chillul Shabbos* (*meleches machsheves* refers to the need for a *melachah* to be performed in a purposeful manner in order to be liable).

One last point of contention: There is a view, accepted by most, that even the Rama agrees that *grama* is allowed on Yom Tov.²⁵ If so, why not allow the Kosher Switch at least on Yom Tov?

First of all, as we just explained, removal of an impediment, according to many, is not called *grama*, so this would not be an example of *grama* to begin with. We mustn't forget that doing *melachah* on Yom Tov is only less severe in terms of punishment,

but the prohibition against doing *melachah* on both Shabbos and Yom Tov is biblical, and the same laws govern them.

We should note that Rav Tzvi Pesach Frank (1934) and the author of the *Aruch Hashulchan* (1903) wrote *teshuvos* that would allow the use of certain (regular) electric switches on Yom Tov because of *grama*.²⁶

However, as pointed out above in Rav Chaim Ozer's response to this very *heter*, it must be rejected out of hand.²⁷

For these reasons, perhaps, Rabbi Yisroel Belsky wrote that if the *Sanhedrin* were in power today, "the use of this switch would call for *misas beis din*."

Even if one wishes to find some point in this debate that would permit the use of the Kosher Switch, remember that we are dealing at best with a *safek d'Oraisa*, for which we do not seek *heterim*, and in the case of which we are obligated to be stringent (*safek d'Oraisa l'chumrah*).

It is of interest to note that we already have a built-in *heter* in regard to lights on Shabbos; Rav Moshe, who was opposed to Shabbos timers in general, did allow them for light switches.

Shabbos is given to us under the command of "shomer." We do not only "observe" Shabbos; we are charged with *guarding* it, safekeeping the holy treasure it is.

NOTES

1. *Igros Moshe, Orach Chaim* 4:60.
2. *Chagigah* 16b.
3. In *Mishpatim* and *Ki Sisa*.
4. *Rosh Hashanah* 32.
5. See *Aruch Hashulchan siman* 243:1-3.
6. On *Vayikra* 23:24; see also his comments in *Sefer Hamitzvos, shoresh* 6.

7. See *Shu”t Be’er Moshe, Kuntrus Electricity, siman 50*, which questions the *poskim* who seem to do just that.
8. *Shu”t Minchas Shlomo* 1:9 and 2:20.
9. See also *Shu”t Beis Yitzchak* 2:31 regarding riding in the first electric cars of Lemberg on Shabbos.
10. See Chazon Ish *siman 38* and *Even Ha’ezersim an 328*; cf. Rambam 9:4 with *Mirkeves Hamishneh*. But see *Iglei Tal, tochen, siman 5*, and *Chazon Ish ibid., sif 3*.
11. Shabbos 120.
12. *Siman 334:22*.
13. See *Biur Halachah*.
14. *Bava Kama* 59-60.
15. *Ibid.*
16. In *siman 287*.
17. *Ibid. 2:31*.
18. Cf. *Machezeh Avraham siman 52*.
19. See *Biur Halachah*, s.v. *k’darko*.
20. Rav Heinemann of the Star-K may disagree; see his exchange with Rav Miller in *Yeshurun* vol. 20 pp. 503-512..
21. Achiezer 3:60.
22. *Shemiras Shabbos K’hilchasah* 13:58. See also *Minchas Yitzchak* 2:16. Even in cases, like refrigerator door, where Rav Shlomo Zalman was lenient due to *grama* even though it used this way consistently he explains that this would only be true where the resulting *melacha* is not within the purpose of the action (i.e. opening the door for food and not so that, or even concerned regarding the motor going on now).
23. See “Deafness in *Halachah*” by this author in RJJ’s *Journal of Contemporary Halacha*.
24. *Even Ha’ezel* 230:4.
25. See *siman 514:25* in *Mishnah Berurah*.
26. See *Encyclopedia Talmudis* 18, p. 178, notes 254-255.
27. For more on this history and a list of the sages who sought to prove this theory incorrect, see Rav Miller’s article *ibid.*, *Chashmal L’Ohr Halachah*, ch. 2, in its entirety.