

May One Park in an Illegal Spot?

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Question: Someone is driving to a meeting or an appointment but cannot find a parking spot nearby. If he will be late otherwise, would it be permitted to park in a spot that is illegal?

Answer: This is certainly a common and frustrating *shailah* that has occurred to many of us. Nevertheless, we should approach the issue from the perspective of halacha and determine whether it is permitted or not. It would seem that the relevant halachic issue here is one of *sho'el shelo mida'as* (borrowing without permission), which is normally considered *gezeilah* (as has been discussed in previous installments of the Business Halacha Daily). In this case of an illegal parking spot, one is using property (*karka*) without permission, as the parking spot certainly does not belong to the driver as an individual (though it is debatable whether it belongs to the government or the residents collectively).

The Mishnah Berurah discusses this type of question in the context of *Hilchos Sukkah* concerning constructing a *sukkah* on public property. He writes that although the Jewish residents would likely allow him to build his *sukkah* there, the non-Jewish residents would not allow it. Therefore, he concludes that constructing a *sukkah* on public property would indeed be considered *sho'el shelo mida'as* and constitute a problem of *gezeilah*. Likewise, parking in an illegal spot would also seem to be halachically problematic for the reason of, *dina d'malchusa dina* (which was discussed regarding similar scenarios in previous installments of the Business Halacha Daily and is beyond the scope of this discussion)

A similar scenario that is also relatively common is parking one's car in a manner that takes two spots rather than one. This too would be subject to the same issue of *shoe'l shelo mida'as* discussed above, considering that a person is only entitled to one spot

In both scenarios, perhaps one could argue that since all residents would prefer an allowance to park illegally for a very limited amount of time, that may render it permitted. Nevertheless, even so, it is questionable whether one should rely on this logic, since often, parking in this manner for a few minutes ultimately leads to staying there for a much greater amount of time.

In addition, perhaps one whose car is blocked due to the illegal parking even for those few minutes is unwilling to wait for the person to leave (even if he himself would park in the same manner at other times). For these reasons, one should be careful in their judgment with regard to this matter.

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Dedicated by Mr. and Mrs. Avigdor Fried