

Business Law

Text & Exercises *6th Ed.*

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Chapter 11: Capacity

Learning Outcomes

- LO1** • Understand the right of minors to disaffirm their contracts.
- LO2** • Identify obligations that minors cannot avoid.
- LO3** • Recognize when a minor has ratified a voidable contract.

Learning Outcomes

- LO4** • Explain how intoxication affects the liability on a contract.
- LO5** • Discuss the effects of mental incompetency on contractual liability.

Contractual Capacity

- **The capacity required by the law for a party who enters into a contract to be bound by that contract.**
- **In this chapter, we look at the effect of youth, mental incompetence, and intoxication on contractual capacity.**

Minors

- **The age of majority (when a person is no longer a minor) is 18 for both genders.**
- **Some states provide for termination of minority on marriage.**
- **Some contracts entered into by a minor are voidable by the minor.**

Disaffirmance

- **The general rule is that a minor can enter into any contract an adult can, provided that the contract is not one prohibited by law for minors.**
 - For instance, the sale of alcoholic beverages.
- **Disaffirmance: the legal avoidance, or setting aside, of a contractual obligation.**

Disaffirmance

- **Restitution**: remedy under which a person is restored to his or her original position prior to the formation of a contract.
- **Misrepresentation of Age**: ordinarily, the minor can disaffirm the contract.
 - Minor is not liable for the tort of deceit. →

Misrepresentation of Age

- **Some jurisdictions allow for minors to be bound under contract, however.**
 - Misrepresentation of age is enough to prohibit disaffirmance.
 - Minors cannot disaffirm executed contracts without returning consideration received.
 - Contract may be able to be disaffirmed, but the minor is held liable for damages.

Minor Liabilities

- **Necessaries: can disaffirm but remains liable for reasonable value of food, shelter, clothing.**
- **Insurance and loans: minor liable.**
 - Traditionally not viewed as necessities.
- **Minors cannot typically avoid obligations for necessities.**

Ratification

- **Ratification: The approval or validation of a previous action. In contract law, the confirmation of avoidable act (that is, an act that, without ratification, would not be an enforceable contractual obligation).**

Parents' Liability

- **As a general rule, parents are not liable for the contracts made by their minor children acting on their own.**
- **Generally, a minor is held personally liable for the torts he or she commits.**

Emancipation

- **Emancipation:** In regard to minors, the act of being freed from parental control. The parents renounce parental duties and surrender the right to the custody and earnings of the minor.

Intoxicated Persons

- **A contract entered into by an intoxicated person can be either voidable or valid.**
- **Simply because the terms of the contract are foolish or are obviously favorable to the other party does not mean the contract is voidable.**

- **Contracts made by mentally incompetent persons can be either void, voidable, or valid.**
 - A voidable contract may be disaffirmed or ratified.
 - A person can be legally mentally incompetent, but not for contractual purposes.