

where it was at. You have to only prove that there was a damage caused and then the issue is did you do anything to cause it, in other words, digging, obviously, is going to be an easy one to prove and what the damage amounts are. So that's if you fail to notice. If you go ahead and you give notice but damage it, then you're under a system where you're just liable for the cost of the repairs anyway, but that goes to a simple negligence standard. You're asking what the law is right now and if somebody goes out and digs on their property and damages the water line, it's going to become a fact issue. Did your water system have markings to reasonably warn people that there may be a water system there? Did those people, by custom or practice, know that their neighbor hit a water line last year and the neighbor on the other side the year before hit one, that probably gives them pretty good knowledge that they ought to be there is a water system in between.

SENATOR VRTISKA: Well, but that doesn't get to the issue. The issue is, if they...when you don't know exactly and some of these lines they're not able to identify them and you can't find water lines because they're plastic like you can...

PRESIDENT MOUL: One minute.

SENATOR VRTISKA: ...gas lines and wires, the problem we have is if they think it goes here but it was over 10 feet and you hit it, then I guess the question is, who becomes liable because you've gone out and tried to identify it, but it didn't...it wasn't exactly where you said it was going to be.

SENATOR KRISTENSEN: Okay, then that's a little different set of facts and that's also covered in the bill, that if you go out, if you've given notice, you're not liable if it was due to the operator's failure to find where that line was at. And then I think Senator Withem's amendment goes a little bit further yet and talks about if you're unable to, if I remember reading that right, if you can't locate it, the operator is supposed to at least give information of where the general area is at, but under the bill, if the operator can't find where it's at or gives them wrong information, those people aren't going to be liable. I mean, they have to rely on that information.

SENATOR VRTISKA: Well, my time is up...

PRESIDENT MOUL: Time.