§ 390-g. Pesticide alternatives. 1. For purposes of this section the following terms shall have the meanings set forth below:

(a) "Day care" shall apply to all child day care centers or head start day care centers, as defined in section three hundred ninety of this title.

(b) "Pesticide" shall have the same meaning as set forth in subdivision thirty-five of section 33-0101 of the environmental conservation law, provided however that it shall not include:

(i) the application of anti-microbial pesticides and anti-microbial products as defined by FIFRA in 7 U.S.C. Section 136(mm) and 136q(h)(2);

(ii) the use of an aerosol product with a directed spray, in containers of eighteen fluid ounces or less, when used to protect individuals from an imminent threat from stinging and biting insects, including venomous spiders, bees, wasps and hornets;

(iii) the use of non-volatile insect or rodent bait in a tamper resistant container;

(iv) the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR Part 152.25;

(v) the use of boric acid and disodium octaborate tetrahydrate; or

(vi) the use of horticultural soap and oils that do not contain synthetic pesticides or synergists.

2. No day care shall apply pesticide to any playgrounds, turf, athletic or playing fields, except that an emergency application of a pesticide may be made as determined by the county health department or for a county not having a health department such authority as the county legislature shall designate, the commissioner of health or his or her designee, the commissioner of environmental conservation or his or her designee, or, in the case of a public school, the school board.